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IOWA ECONOMIC HISTORY SERIES

EDITED BY BENJAMIN F. SHAMBAUGH

LABOR LEGISLATION IN IOWA

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HISTORY OF
LABOR LEGISLATION
IN IOWA

BY
E. H. DOWNEY

PUBLISHED AT IOWA CITY IOWA IN 1910 BY
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EDITOR'S INTRODUCTION

THE IOWA ECONOMIC HISTORY SERIES as undertaken by The State Historical Society of Iowa is inspired by the conviction that history is more than politics and biography: as a record of the evolution of human institutions it includes the social and economic life of man. In writing the history of Commonwealths it is no longer possible to ignore industrial developments — especially in this commercial age.

Underlying the researches which are to be embodied in this series of publications is the idea that history may be exploited in the cause of social betterment. A knowledge of past conditions will surely assist in explaining and illuminating the complex present, just as an intelligent appreciation of present conditions must inevitably afford viewpoints from which to interrogate the past with profit. To put history to some practical use is the supreme aim of industrial and economic research. And in the so-called legislative reference movement we are even now witnessing the birth of "applied history".

The *History of Labor Legislation* as presented by Mr. Downey in the following pages was written in the winter of 1907-1908. Subsequent to that time some modifications in the laws affecting labor were made by the Thirty-third

General Assembly, which met in regular session in 1909. And so there has been added to this volume an appendix, prepared by the author, in which all such modifications are clearly pointed out.

BENJ. F. SHAMBAUGH

OFFICE OF THE SUPERINTENDENT AND EDITOR
THE STATE HISTORICAL SOCIETY OF IOWA
IOWA CITY 1910

AUTHOR'S PREFACE

An attempt is made in the following pages to treat the subject of labor legislation in Iowa historically. Under each division of the main subject the principal laws that have been enacted are set forth, with some account of the conditions and influences that led to their passage and some discussion of their practical operation. For the most part attention is confined to formal legislation, but in the case of employers' liability a rather full exposition of the Common Law appeared necessary in order to make the meaning and effect of the statutes intelligible.

The materials for a history of labor legislation in Iowa are scant and unsatisfactory. Economic statistics are far less complete in Iowa than in the more advanced industrial States. Labor questions have rarely been a factor in political campaigns, nor have they received much attention in the newspapers of the day. Only within a few years have the records of labor unions and employers' associations been preserved. For many of the topics considered in the following pages the materials for an adequate treatment do not exist.

The writer's thanks are due first of all to Professor Isaac A. Loos of The State University of Iowa, at whose suggestion this work was undertaken and whose counsel has been relied upon at every stage of its progress. Professor Benj. F. Shambaugh of the same University freely gave to the writer the benefit of his wide and thorough knowledge of Iowa history, and also carefully read and revised the manuscript. Whatever merit this history may possess is in large measure due to

him. Professor Henry W. Farnam of Yale University has had general supervision of the work on behalf of the Carnegie Institution. Valuable hints as to methods and arrangement were received from a perusal of Doctor Alba M. Edwards's *Labor Legislation in Connecticut*. Many courtesies were extended to the writer by officials of the Iowa Bureau of Labor Statistics, the State Mine Inspectors, the Board of Control, the Railroad Commissioners, and the Wardens of the Iowa penitentiaries. Mr. A. J. Small of the State Law Library was very kind in placing the great resources of that collection at the writer's disposal. Especial thanks are due for information furnished by the officers of the Iowa Federation of Labor and of District Thirteen of the United Mine Workers of America. A multitude of facts have been received from labor leaders, employers, club women, and humanitarian workers in all parts of the State. The number of persons rendering direct assistance is so large that it is impossible to mention them all by name; but without their help the preparation of this volume would have been impossible.

The undertaking of the present study was rendered possible by an appointment as Research Assistant in The State Historical Society of Iowa. The expenses of the collection of data were borne by the Carnegie Institution of Washington.

E. H. DOWNEY

THE STATE HISTORICAL SOCIETY OF IOWA
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I

INTRODUCTION

Labor legislation, as the term will be used in these pages, embraces all statutory provisions designed to regulate the conditions of employment or to protect wage-earners from exploitation. The need for such regulation and protection grows out of the capitalistic system of production which creates a large class divorced from ownership in the instruments of production, having no share in the direction of industry and dependent upon wages for subsistence. Labor legislation is, then, a concomitant of the Industrial Revolution and has been enacted in one country after another as modern industrialism has extended itself over the world.

Capitalistic industry is still in an early stage of development in Iowa, and the State is still predominantly agricultural, the bulk of the population consisting of independent producers rather than of wage-laborers. Accordingly, the labor legislation of Iowa is smaller in amount and less advanced in character than that of many of the American Commonwealths.

Iowa first received a separate Territorial government in 1838; but prior thereto the region now embraced within its borders had been incorporated with the original Territory of Wisconsin, and still earlier with the Territory of Michigan. The laws of the new government were derived in the first instance from those of its predecessors; so that for the beginnings of Iowa legislative history we must look to the Territories of the Old Northwest.

But of labor legislation there was extremely little in the Territories of which Iowa formed a part prior to 1838. In those frontier communities the differentiation of industry had

hardly begun. Almost the entire population was agricultural and land-owning. Towns were few and small. Manufactures, except those of the household, did not exist. There were no railways, and no mining on a large scale. The only important class of wage-earners were the members of the various hand-trades found in every community—though there was, besides, a considerable number of persons who occasionally worked for wages. Accordingly, there are early laws regulating apprenticeship, providing for mechanics' liens, and exempting wages from attachment. Prisons, too—those inevitable accompaniments of civilization—were found upon the frontiers; and laws governing prison labor were among the earliest enacted in the new Territories. But no beginning was made of the more important classes of labor legislation until long after Iowa had attained Statehood.

The coming of the railways in the early fifties gave rise to a new set of labor problems with which the legislature has been called upon to deal from time to time ever since 1851. The coal mining industry attained importance about a decade later, and mine labor legislation began in 1872. The development of manufacturing on an important scale came much later. In recent years, however, there has been a great growth of factory production and a marked concentration of population in towns and cities. A large wage-earning class has come into existence and is becoming conscious of its political power. The special problems of factory, child, and woman labor have begun to press for solution. Labor questions have increasingly occupied the attention of the General Assembly, and the volume of labor legislation has grown apace.

Laws are not, in general, the spontaneous work of legislatures. This is particularly true of labor laws in a community such as Iowa. A majority of our legislators come from rural districts or country towns, and, however sincerely devoted to the public weal, are necessarily uninformed as to the needs and demands of wage-earners. Most members of the legislature serve but for short terms, so that they have

little opportunity to familiarize themselves with legislative questions. The sessions of the General Assembly are brief, and the number of bills presented is so large that only those which are persistently pressed upon the attention of the members have any chance of passage. Moreover, much of the legislation demanded by working men is opposed by powerful railway and mining corporations, wealthy manufacturers, and influential men of business. The natural conservatism of farmers and the fear of frightening capital and enterprise away from the State make the legislature reluctant to adopt any measure distasteful to these interests. Hence, it is only by the pressure of public opinion or by the political power of the class most concerned that legislation in the interest of labor has been or can be secured.

There appears to have been very little concerted effort in support of labor legislation prior to 1876, when the Knights of Labor organized in Iowa. By the middle of the following decade this organization had a membership of twenty-five thousand and was a power in the politics of the State. Thereafter the Knights of Labor gradually declined in numbers, and finally disappeared (except for a few local bodies) early in the nineties. During the period of their strength the Knights were very influential in securing legislation on behalf of labor. The establishment of the Iowa Bureau of Labor Statistics in 1884, the important mine legislation of 1880, 1884, and 1888, and the prohibition of black-listing in 1888 were principally due to their exertions.¹

The Knights were replaced by the Iowa Branch of the American Federation of Labor, formed in 1893. Though checked for a time by the prolonged industrial depression following that year, this Federation has enjoyed a healthy growth since 1898 and now (1908) has more than forty thousand members. The Federation maintains a very efficient "legislative committee," which not only brings the demands of organized labor to the notice of the General Assembly, but keeps the record of each member of the legislature upon every

question affecting the interests of labor. All of the very numerous labor laws enacted since 1893 have been secured very largely through its influence.²

The most important of these laws are: the amendment of the mechanics' lien law in 1894; the acts of 1896 and 1898 for the inspection of illuminants used in coal mines; the act of 1900 for the certification of mine foremen and hoisting engineers; the factory act of 1902; the laws passed in the same year restricting contract labor in the State prisons and providing for shot examiners in coal mines; the compulsory education laws of 1902 and 1904; the child labor law of 1906; the assumption of risk act of 1907; and the laws of 1907 limiting the hours of labor for certain railway employees, regulating the height of wires strung above railway tracks, forbidding the storage of powder in coal mines, and providing for the licensing and inspection of private employment agencies. Moreover, the Federation has succeeded in defeating a number of proposed measures—notably boycott, anti-picket, and wage-garnishment bills—adverse to the interests of labor.

With the Federation of Labor have coöperated, wherever their own interests were affected, the great railway brotherhoods and the several trades unions within the Federation itself. The most important of these is the powerful United Mine Workers of America, organized in Iowa in 1898 and now numbering some seventeen thousand members in this State.

Thus, from 1876 to the present day labor organizations have been the main factor in securing legislation in Iowa in the interest of wage-earners. Since nearly all of the important labor laws of this State have been enacted within the past thirty years it follows that the existing legislation upon this subject is directly traceable to the influence of organized labor. Without that influence few of the labor laws would have been passed when and as they were; while many of them, probably, would not have been passed at all.

The interests opposed to labor legislation have not lacked organization or capable leadership. The leading railways of

the State have repeatedly used their great influence against proposed legislation demanded by wage-earners.³ The Iowa Coal Operators' Association, the State Manufacturers' Association, the Retail Merchants' Association, and various Citizens' and Industrial Alliances, either maintain regular legislative committees or send special representatives to Des Moines to urge the passage of their own bills and to oppose those supported by organized labor. Many of the measures proposed by labor organizations have been defeated by such opposition; and many of the labor laws actually passed represent compromises between the opposing interests.

Iowa has had the very great advantage of the previous experience of more advanced industrial communities in dealing with labor problems. Most of the legislative questions which have arisen in this State had come up long before in other States and had been more or less intelligently handled. The legislature of Iowa has thus been able to avoid some costly mistakes and to adopt laws at the outset which had been perfected through the tedious process of evolution elsewhere. But the cases are far more numerous in which the General Assembly of Iowa has failed to profit by the experimentation of other States. Time and again laws which had been thoroughly tested elsewhere and had proven successful have been rejected, and measures enacted in their stead which experience had shown to be inadequate. The result has been the frequent amendment, repeal, and reënactment of statutes which might just as well have been made efficient from the beginning.

Much of this failure to make intelligent use of the rich social and political experience of other communities is due to sheer lack of information. Men who give but a few months of their time once in two years to the work of law-making can hardly be expected to know at first hand what is being done outside of their own State. A bureau of information or research, similar to the Wisconsin Legislative Reference Department, which should utilize the scholarship of the State

to collate the legislation and digest the experience of other States and countries, would probably do as much as any agency whatever to promote the cause of wise social legislation.

The labor legislation of Iowa, on the whole, fairly represents the industrial development of the State and the political intelligence of the people. A study of that legislation ought, therefore, to throw some light upon many phases of Iowa industrial history.

II

WAGE LEGISLATION

Wage laws aim to secure the prompt and full payment of the laborer's wages and to protect him against oppression by unscrupulous creditors. The working man ordinarily lives from hand to mouth, owning little or no property and dependent upon his daily earnings for subsistence. To the merchant the non-payment of an account means only a reduction of his profits for the week or month. To the day-laborer the loss of even a week's wages entails privation, if not distress. It has been thought just, therefore, that the payment of wages should be secured by stronger legal guarantees than ordinary debts. Further, the wage-earner is usually weaker economically than either his debtors or his creditors. He is peculiarly susceptible to the temptations of the credit system—which possesses for him greater evils than for any other class. The interference of the law is generally thought necessary to aid him in maintaining a cash system, and to shield him from the extortion of the money-lender.

MECHANICS' LIENS

The legislation upon the subject of mechanics' liens began when Iowa was a part of Michigan Territory. The Legislative Council of that Territory established a mechanics' and merchants' lien for the city of Detroit and county of Brown in 1827.⁴ Two years later the provisions of this act were extended to the other counties of the Territory;⁵ and later still (1833) the earlier laws were replaced by a more elaborate statute,⁶ the provisions of which were extended over the Territory of Wisconsin in 1836⁷ and over the Territory of Iowa in 1838.⁸ These Michigan laws served only as a point of de-

parture; for the settlement of Iowa had scarcely begun before they were superseded.

The first labor law enacted by the Legislative Assembly of the Territory of Iowa was "An Act relative to Mechanics' Liens", which was approved December 17, 1838.⁹ It secured payment for labor performed or material furnished under contract with the owner of real estate for the construction or repair thereon of any house or other building, mill, or machinery, by a lien upon the building with its appurtenances and upon the lot or tract of land upon which the same was erected. Section five gave persons employed on mineral lands a similar lien upon the ground on which they were employed. The judicial process for enforcing the lien was amended in 1840;¹⁰ and in 1843 the earlier laws were combined, with a few changes, in one statute.¹¹

Important changes in the law of mechanics' liens were made in the *Code of 1851*.¹² Every person who by virtue of a contract with the owner of a piece of land should perform work or furnish material especially for any building was given a lien upon the land, including the building and its appurtenances, "against all persons except incumbrancers by judgment rendered, and by instrument recorded before the commencement of the work or the furnishing of the material."¹³ The word "owner" was defined as "any person who has any estate or interest in the land", and the lien extended to the whole of such estate and interest and no further.¹⁴ The realty subject to lien was limited to one-half acre in the case of town lots and to two acres in any case.¹⁵ The sub-contractor, not mentioned in the laws of 1838 or 1843, now obtained a lien against his principal, enforceable by garnishment of the latter's claims in the hands of the owner of the real-estate improved.¹⁶ All rights to a mechanics' lien were forfeited by taking collateral security on the same contract.¹⁷ The miners' lien of the former laws was omitted, but a new lien was created for the benefit of "persons furnishing labor

or materials for the construction of any bridge, railroad or other work of internal improvement."¹⁸

Acts relating to the filing of claims for mechanics' liens were passed in 1857¹⁹ and in 1858;²⁰ the last mentioned law further provided that any person furnishing materials to the contractor should have the same lien as the contractor himself.

Thus far the mechanics' lien had benefited chiefly the contractor and the material-man. In 1860 its benefits were extended to all persons who should perform any work or furnish any material for any building, erection, or improvement upon land by virtue of any contract with the owner thereof, his agent, trustee, contractor, or sub-contractor.²¹ But sub-contractors, including all who did not have contracts directly with the owner, his agent or trustee,²² were required in order to avail themselves of the lien, to notify the owner of their intention to perform labor or furnish material.²³ Failure to do so did not, however, forfeit the lien, provided a statement of the claim was filed before the payment of the contractor.²⁴ The acreage limitation of 1851 was removed, and it was provided that when the owner of the improvement has only a lease-hold interest in the land improved, the lien should attach to the improvement notwithstanding the subsequent forfeiture of the lease.²⁵ By the same act the lien was made transferable, and when for labor alone it was exempted from execution.²⁶

Acts relating to the filing of claims, the service of notice, and the mode and time of commencing action were passed in 1862, 1870, 1872, and 1874.²⁷ There was also passed in 1874 an act to further secure the rights of sub-contractors' employees.²⁸ In 1876 all prior laws relating the mechanics' liens were repealed and a new statute enacted,²⁹ since which date there have been several additions but no very important alterations. In 1884 it was enacted that a sub-contractor engaged upon a public improvement not belonging to the State shall have a claim against the public corporation constructing such improvement.³⁰ No lien can attach to any public prop-

erty,³¹ but payment of the principal contractor may be stayed until the sub-contractors' claims are satisfied.³² The miners' lien, omitted in the *Code of 1851*, was revived in 1890.³³ Lastly, in 1894, it was provided that persons "engaged in grading any land or lot" shall have a lien "upon the land or lot so graded."³⁴

The mechanics' lien is purely statutory and is limited by the acts of the legislature creating it.³⁵ The lien is allowed only for buildings, erections, or other improvements upon land;³⁶ the improvement must be such as to become a part of the land by way of addition thereto.³⁷ Thus it has been held that the plowing of land,³⁸ the filling in of a vacant lot,³⁹ or the construction of a sidewalk on the street in front of a lot⁴⁰ are not improvements within the meaning of the law. On the other hand, excavations for buildings and permanent wells are within the statute.⁴¹

A mechanics' lien can be claimed only for materials furnished or labor performed by virtue of a contract. But the contract need not be in writing, nor even express; nor is it necessary that it be proved by direct and positive testimony.⁴² Neither is it necessary that there should be a contract to furnish any specific amount of labor or material,⁴³ nor that all of the materials furnished should be actually used.⁴⁴ Again, it is not essential that the agreement should be made with the owner of the real-estate improved; it may be made with his agent or trustee, or with one who is a contractor or sub-contractor, though he have no interest in the land, or building or other improvement.⁴⁵

The right to a mechanics' lien may be asserted by corporations as well as by natural persons,⁴⁶ by non-residents,⁴⁷ by minors or married women,⁴⁸ by day-laborers,⁴⁹ by all in short who bring themselves within the provisions of the statute.

In order to avail himself of the benefit of the lien the principal contractor must file his claim with the clerk of the District Court within ninety days, and the sub-contractor

within thirty days, after the materials were furnished or the services rendered; but failure to do so will not defeat the lien, except against purchasers or incumbrancers in good faith, without notice, whose rights accrued after the expiration of the time allowed for filing claims. Where a lien is claimed upon a railway, the sub-contractor has sixty days from the last of the month within which the labor was done or material furnished within which to file his claim therefor.⁵⁰

Mechanics' liens have priority of all garnishments of the owner for contract debts, without regard to the date of filing the claims for such liens; they are preferred to all other liens or incumbrances upon the improvements and the land on which they are situated, made subsequently to the commencement of the furnishing of the material or performance of the labor; and finally, they attach to the buildings, erections, or improvements concerned in preference to any prior lien, incumbrance, or mortgage upon the land. As between different persons claiming mechanics' liens upon the same property, priority is recognized according to the order of the filing of the statements and accounts therefor.⁵¹

An action to enforce a mechanics' lien may be brought at any time within two years from the expiration of the legal period for filing claims and cannot be brought afterwards.⁵²

Builders and material men belong to a class of creditors whose rights accrue from time to time and who cannot well avail themselves of the ordinary remedies for the collection of their claims. The preference given them rests upon equitable grounds.

PREFERENCE OF EMPLOYEES' CLAIMS

Akin to mechanics' liens is the preference given to claims for wages in the settlement of the estates of insolvent debtors. Employees are generally the last to protect themselves against the insolvency of their employers, so that, where no statutory preference exists, the assets of the bankrupt firm are often exhausted by secured creditors, leaving the employees' claims

unpaid. Moreover, the claims of the latter, while individually small, are very important to them; and they, if any, are entitled to preference, for they have usually helped to create the assets from which the debts are to be paid.⁵³

For these reasons an act was passed in 1890 which provides that when the property of any company, corporation, firm, or person, is seized or assigned for debt, wages due employees for labor performed within the ninety days next preceding the seizure or assignment, to an amount not exceeding one hundred dollars to each employee, shall be preferred claims.⁵⁴ This statute gives priority to such claims over other liens, including mortgages, existing and of record at the time of the seizure or assignment.⁵⁵

TIME AND MODE OF PAYMENT

Hardly less important to the laborer than the ultimate security of his wages are the manner and frequency of his payment. The most common abuses in these particulars are the truck system and the monthly settlement plan—evils which will be most conveniently discussed in connection with the mining and railway industries to which they are chiefly confined.

EXEMPTION OF WAGES FROM ATTACHMENT

Ever since 1851 a debtor who is a resident of the State and the head of a family has held the earnings of his personal services and those of his family at any time within ninety days next preceding the levy exempt from liability for debt.⁵⁶ A non-resident of the State, or an unmarried person, not the head of a family, has no exemption, except wearing apparel and trunks necessary to contain the same.⁵⁷ A bill was introduced in the Thirtieth General Assembly (1904) to remedy the injustice to non-residents by granting them the same exemptions as to personal earnings as are allowed in their respective States.⁵⁸ This bill was lost in committee,⁵⁹ and no similar measure has ever become law. But in the same year (1904) the wages of a non-resident, earned and payable outside the

State, were exempted from garnishment by a non-resident creditor upon a cause of action arising outside of this State.⁶⁰ An act passed in 1890 provides a penalty of not less than ten nor more than fifty dollars for sending a claim outside this State to defeat an exemption allowed by law.⁶¹

For some years past persistent efforts have been made by the Retail Merchants' Association and its predecessor, the Association of Retail Grocers, to secure a modification of the exemption laws, permitting the attachment of wages for the family expenses of a debtor. The bills looking to this end have been numerous, but it will be sufficient for our purpose to sketch the provisions and legislative history of a few of the best known measures. At the legislative session of 1904, Mr. Robert A. Greene of East Peru, a prominent member of the Retail Grocers' Association, and at present (1907) chairman of the Retail Merchants' Legislative Committee, introduced a bill restricting the exemption of the debtor's personal earnings, as against debts for family expenses, to seventy-five per cent of the amount earned within ninety days immediately preceding the levy.⁶² This bill was favorably reported by a majority of the Committee on Ways and Means; but there was a minority report against it, and it was eventually lost by indefinite postponement.⁶³ Mr. E. W. Weeks of Guthrie Center then introduced a bill substituting forty dollars per month for the seventy-five per cent of Greene's bill.⁶⁴ This measure, after amendment, passed the House, but was adversely reported in the Senate and finally died in the Sifting Committee.⁶⁵ The defeat of both bills was largely due to the exertions of the Legislative Committee of the Iowa Federation of Labor under the leadership of President A. L. Urick.

An effort was now made by the two organizations most interested to agree upon a program of legislation. Simultaneous conventions were held at Council Bluffs in May, 1905, where the Retail Grocers merged themselves into the Retail Merchants' Association, and where resolutions were passed by both conventions demanding the repeal of all existing ex-

emptions laws.⁶⁶ Charges of bad faith were afterward made on both sides. On the one hand it was alleged that the Federation was insincere, demanding the repeal of all exemption laws in order to prevent the repeal of any. On the other hand it was asserted that the Retail Merchants' bill in the next legislative session was a direct violation of the agreement.⁶⁷ This bill, fathered by Mr. Greene, limited homestead exemptions to the value of five thousand dollars, and the exemption of wages to forty dollars per month for the ninety days next preceding the levy.⁶⁸ The legislative history of this bill was much like that of its immediate predecessor. It passed the House by fifty-two to thirty-seven, was unfavorably reported by the Senate Committee on Ways and Means, and was left to expire in the hands of the Sifting Committee.⁶⁹ Wage-exemption bills were introduced at the last session of the legislature (1907) by Representatives Blackmore, Greenwood, and Weeks, and by Senator James J. Crossley of Winterset.⁷⁰ Strong opposition developing, the House bills were withdrawn by their respective authors;⁷¹ and Senator Crossley's bill was indefinitely postponed.⁷²

It is probable that the Retail Merchants' Association will renew its efforts at future meetings of the legislature. The merchants and their friends contend that the present law permits the dishonest laborer to escape the payment of his just debts. If his wages were liable to attachment he would not, as now, recklessly contract indebtedness without either the means or the intention of paying. On the other hand, the friends of the law assert that a wage exemption law helps the laborer to maintain a cash system by making it difficult to get undue credit. Were the merchant sure of his payment, the wage-earner would be encouraged to run into debt, his pay-check would barely suffice to meet his accounts, and he would speedily sink to a condition of dependence. There can be no doubt that this contention is sound in the main. Purchasers "on time" are invariably worsted in quantity and price, and it is well known that such purchasers are less pru-

dent than those who pay cash. The number of bad debts is diminished rather than increased by a reasonable wage exemption. An efficient system of credit agencies is probably a better protection against "dead beats" than a garnishment law.

There is, moreover, a broader phase of the question. It has long been regarded as sound public policy to permit every family to hold a homestead and the means of livelihood secure against economic misfortune. But the day-laborer commonly does not possess a homestead. Often he owns no tools; and he very rarely has any store of provisions on hand. All his property consists of a little household furniture and wearing apparel. His wages are his only income, and if these could be attached for past indebtedness, he would not infrequently be thrown upon society for support. Even as it is, he enjoys far less protection from insolvency laws than the farmer, the merchant, or the professional man. It should, however, be added that it is thought by many that the general exemption laws of Iowa are too liberal.

ASSIGNMENT OF WAGES

The exemption of wages from attachment is not sufficient to destroy the credit system, since the laborer may still obtain goods by assigning his wages to his creditor. Still more frequently are such assignments made for the purpose of borrowing money in anticipation of future wages. Unscrupulous money lenders, commonly known as "loan sharks" who prey upon the necessities and improvidence of the wage-earners are found in all of the larger centers of industry in Iowa. A bill introduced by Representative Wright of Ft. Dodge in 1906, aimed at checking their operations by making the assignment of future wages invalid.⁷³

The Judiciary Committee, to whom this bill was referred, brought in a substitute⁷⁴ which with slight amendment and almost without opposition⁷⁵ became law. The measure as passed provides that no sale or assignment of wages by the head of a family "shall be of any validity whatever unless

the same be evidenced by a written instrument and if married unless the husband and wife sign and acknowledge the same joint instrument before an officer authorized to take acknowledgments". Valid assignments have priority in the order in which written notice is given to the employer.⁷⁶

Wage assignment is not the sole or even the principal device of the loan sharks. Advertisements like the following appear in the evening papers, on bill boards, and in street cars:

WE LOAN
MONEY

ON FURNITURE, PIANOS, FIXTURES,
HORSES AND VEHICLES.

\$1.20 IS THE WEEKLY PAYMENT ON
A \$50 LOAN.

EVERY TRANSACTION STRICTLY CON-
FIDENTIAL. RELIABLE—PRIVATE.

TRI-CITY LOAN CO.

OLD PHONE NO. 2425. 219½ BRADY ST.

DAVENPORT, IOWA.

OPEN WEDNESDAY AND SATURDAY NIGHTS.

The "confidential" nature of the transaction and the easy payment plan are especially attractive to the classes to which these appeals are addressed. It is like buying goods on installment—many purchases are made which the family purse can ill afford. For it is to be noted that these loans are not advancements of capital, as in the case of the push-cart men of New York or the coster-mongers of London. Money is borrowed rather for the purchase of luxuries and comforts, or as the result of sickness or other misfortune, and the household furniture is pledged in the hope that it will speedily be redeemed.

The rate of interest on these loans, including "commissions and charges," is inversely proportional to the amount loaned. Upon small sums for short terms it may reach several

hundred per cent. The total is seldom less than ten per cent a month, that portion of the charges in excess of legal interest being deducted in advance from the face of the loan. Thus a note drawn for five dollars, payable in one month, actually yields to the borrower but four. The security exacted in the form of a wage assignment or a chattel mortgage is more than ample, and the harsh manner of enforcement is the most repugnant feature of the "personal loan industry".⁷⁷

The loan sharks find their patrons chiefly among the least provident and least informed members of the community. Such people, because of their very ignorance and improvidence, are rarely members of a labor union or other fraternal organization. Often their credit is not good at the store; and so their only recourse is the professional money lender.

It is difficult to frame any law which will correct the abuses growing out of money lending without at the same time interfering with legitimate business. Perhaps the best remedy for the loan shark evil, as for so many others, is wisely directed private benevolence. Such organizations as the Tri-City Jews' Associated Charities of Davenport, Rock Island, and Moline, or the more inclusive and widely known Provident Loan Association of New York, which make loans in deserving cases at low interest rates, can perhaps do more than any statutory regulation to put an end to the sharp practices of private loan agencies.

WAGES OF MINORS AND MARRIED WOMEN.

As far back as 1851 it was enacted that where a contract for the personal services of a minor has been made with him alone, payment to the minor in accordance with the contract is a full satisfaction for the services. This law has never been altered.⁷⁸

Since 1873 a wife has been permitted to receive the wages of her personal labor, and maintain an action therefor in her own name, and hold the same in her own right.⁷⁹

Similar laws exist in many States. They tend to lessen the economic dependence of the classes to which they apply.

III

CONVICT LABOR LEGISLATION

The history of the prison legislation of Iowa begins with "An Act for providing and regulating Prisons", adopted by the Governor and Judges of Michigan Territory in 1819. This act required the sheriff of each county to furnish any convict sentenced to hard labor with tools and materials to work with in the jail or jail-yard, and to sell the articles manufactured or other produce of convict labor. If at the expiration of the sentence it should appear that the proceeds of the labor of any convict had been more than sufficient to pay for his or her maintenance at the jail, and for the fine, if any, imposed by the court, and for the cost of tools and materials used, then the residue was to be paid to the released convict.⁸⁰

The law of 1819 was adopted with slight change by the Legislative Council of the Territory of Michigan in 1827⁸¹ and, not having been repealed, was still in force when Iowa became a separate Territory in 1838.

The system of confining persons convicted of grave crimes in common jails with petty offenders is wrong in theory and bad in practice. Accordingly, the first Legislative Assembly of the Territory of Iowa passed an act providing for the erection of a penitentiary.

This prison was to be located at Fort Madison, and was to be of sufficient capacity "to receive, secure, and employ one hundred and thirty-six convicts, to be confined in separate cells at night", and was to be modelled upon the Connecticut State Prison at Wethersfield. Convicts at the penitentiary were to be employed in the construction of the prison; but after its completion they were to manufacture articles for the market under the direction of the Warden.⁸²

In 1841 the warden was empowered to hire out the convicts for work in the town of Fort Madison, his authority under the earlier law to manufacture and sell goods remaining unimpaired.⁸³ In accordance with the discretion allowed him by these laws, the warden employed the prisoners, sometimes in blacksmithing, cooperage, and shoe making, and sometimes in wood cutting, digging cellars, and other odd jobs.⁸⁴

The theory then generally accepted was that a prison should pay its own way—an ideal which the small number of prisoners at the Iowa penitentiary made difficult of realization. Disappointed, apparently, by the financial results of the earlier system of management, the legislature in 1846 formally leased the penitentiary for a term of three years. The lessee undertook to clothe, feed, and attend the convicts; to employ overseers, guards, and physicians; and to defray all contingent expenses of the penitentiary out of his own pocket, receiving in return full management and control of the penitentiary with all profits arising from the labor of the convicts.⁸⁵

This lease was not renewed. Upon its expiration the penitentiary was again placed under the control of public officers with authority to direct the manner in which the prisoners should be employed.⁸⁶ In 1854 the contract system of disposing of convict labor was inaugurated, and this system has been retained until the present time.

By the agreement of 1854 the contractors, John H. Winterbotham and W. D. Headley, obtained the services of all able bodied men in the penitentiary, exclusive of those detailed for the work of repairing, cleaning, and cooking, "to be employed in the manufacture of Wagons, Buggies, Harness, Saddletrees, Mechanical and Agricultural Implements, or in any other mechanical trade which may be sanctioned by the Warden." The men were to be fed, clothed, and disciplined at the public charge; and the State was to furnish shops and store-rooms within the walls of the prison and to allow the contractors the free use of all tools belonging to the State within the prison upon the sole condition that they should be returned

in good order upon the expiration of the contract. The contractors undertook to provide all other tools and materials and to pay to the State for each convict employed thirty cents per day for the first year and thirty-five cents per day for the remaining nine years of the life of the contract. This sum was not to be paid in cash, a four months' credit being allowed so that the contractors might dispose of their product before paying for their labor.⁸⁷

Upon the expiration of the Winterbotham and Headley contract in 1864 a ten year agreement was formed with Thomas Hale and Company, Winterbotham being a member of the new firm. This contract was very similar to the one of ten years before, but the maximum number of prisoners to be employed on contract labor was fixed at one hundred fifty, and the industries were limited to cooperage and the manufacture of agricultural and household implements. The compensation to be paid to the State was raised from thirty-five to forty and one-third cents per day, computed on a ten hour average for the year.⁸⁸

It was thought, however, that forty cents a day was too low a price for the labor of able bodied men.⁸⁹ Accordingly, when Hale and Company's contract was about to expire, the General Assembly passed an act, in 1874, directing the Governor to appoint three Commissioners with power to let the labor of three hundred convicts for five years at a minimum price of sixty cents per day per man.⁹⁰ Upon these terms a contract was made with Brown and Company of Columbus, Ohio, (subsequently known as the Iowa Farming Tool Company) for one hundred men to be employed in the manufacture of agricultural implements; another with Trebilcock and Johnson of Bloomfield, Iowa, for fifty men to be used in making chairs, coffins, and school furniture; and a third with O. B. Dodge of Red Wing, Minnesota, for one hundred men for the manufacture of boots and shoes and shoe pacs. Only able bodied men sentenced for at least one year were included in these contracts. In each case the State built, maintained, and

heated the shops, and furnished, free of charge, a certain number of "lumpers", to do cleaning, build fires, and run errands. The remaining provisions of the contracts were very similar to those of 1854 and of 1864.⁹¹

The hard times following the panic of 1873 began to be felt in the Mississippi Valley soon after the prison contracts of 1874 went into effect. Dodge and Company failed during the winter of 1875-1876, and the other contractors declared themselves unable to continue paying the contract price for prison labor.⁹² Their representations induced the General Assembly to repeal the section of the law of 1874 fixing a minimum price for convict labor and to authorize the Labor Commissioners of the penitentiary to make new contracts at their discretion, subject to the approval of the Executive Council.⁹³

The Commissioners used the power granted them by this act to reduce the price of prison labor to forty-eight cents a day for the tool company, and to forty-three cents for the Fort Madison Chair Company (successors of Trebilcock and Johnson). Dodge and Company were replaced by the Huiskamp firm (shoe manufacturers) of Keokuk, Iowa, who took ninety men at forty-three cents per day, and four "lumpers" at nothing.⁹⁴

The return of prosperity had little effect upon the price of prison labor, which had fallen so promptly as a result of the panic. The Huiskamp contract was renewed in 1878 at forty-three and one-third cents,⁹⁵ the chair contract in 1880 at forty-three cents (forty-five after October 1, 1882)⁹⁶ and the tool contract in the same year at fifty cents.⁹⁷ Again in 1881 the Huiskamps were able to make an eight and one-half year contract beginning in July, 1883, at forty-five cents.⁹⁸ The chair contract was renewed in 1888⁹⁹ and again in 1894¹⁰⁰ at fifty cents for full time men and twenty-five cents for "lumpers". The rate for full time men was reduced to forty cents in 1896 as a result of the industrial depression from which the country was then suffering and was fixed at forty-five cents in 1900 after the restoration of prosperity. The

existing contract will terminate, partly in October, 1909, and partly in April, 1910. The farming tool company has paid twenty-five cents a day for "lumpers" since 1894; for full time men they paid fifty cents from 1894 to 1906, and fifty-five cents from January 1, 1906, to December 31, 1908. From the last named date they will pay sixty cents till the expiration of their contract on December 31, 1913.¹⁰¹

The Huiskamp shoe contract finally expired in 1894 and was not renewed.¹⁰² A contract was entered into in 1899 with the Iowa Button Company for fifty-seven men for five years at fifty-five cents per day.¹⁰³ These men were to be employed in the manufacture of pearl buttons from fresh-water shells—an industry which had attained much importance at Muscatine and other Mississippi River points. Outside manufacturers and their employees strenuously objected to prison competition, and, in conjunction with the Iowa Federation of Labor,¹⁰⁴ secured the passage of an act by the next General Assembly which abolished the button industry at the penitentiary after the expiration of the then existing contract.¹⁰⁵

Thus, ever since 1854 the prisoners at Fort Madison have been employed mainly in contract labor. The following manufactures have been carried on under this system for the periods specified: farming tools, 1854 to the present day; chairs, from 1875 to date; shoes, from 1878 to 1894; shoe pacs, during a part of the years 1875-1876; cigars, for a few months in 1876; and pearl button blanks, from 1899 to 1904. It thus appears that farming tools and chairs have been and still are the great prison industries of this State. During the biennial period (ending June 30, 1908), of approximately 443 inmates at the penitentiary, the tool company employed one hundred and sixty-one at full pay, and seventeen at half pay; the chair company used one hundred and forty full pay men and eight "lumpers".¹⁰⁶ Neither contract was full, though both companies stood ready to use their entire quota.

The "task system" was introduced by the tool company many years ago. Under this plan each man is required to do

a minimum day's work, said to be equivalent to the average amount formerly accomplished in ten hours. For whatever he does over and above this task he receives pay at the same rate as the average compensation paid to the State for the same amount of work. The opportunity thus afforded to earn a small pittance for themselves is greatly valued by the men and is a strong stimulus to exertion. Competent observers are of the opinion that the tool company's men work as hard as do most employees in outside factories. The chair company has not seen fit to adopt the task system, though it does permit its men to make cane seats in their cells—a practice of doubtful benefit to the prisoners.

The price received by the State for prison labor has varied little in thirty years and is actually less now than in 1875. The workshops are built, maintained, heated, lighted, and furnished with water at the expense of the State. The contractors pay only from two and one-half to six cents per hour for the actual working time of able bodied men; and they make payment, not in cash, but in notes without interest due three months after the monthly day of settlement. It might seem, therefore, that the prison contracts should be highly profitable. The contractors themselves, however, deny that they are making anything more than reasonable profits. The chair company, indeed, declare that they would withdraw from the prison altogether, even at the present rates, did they not already have heavy investments there.¹⁰⁷

Whether or not contracts more advantageous to the State than those at present in force might be secured, the writer does not pretend to say. It is plain, however, that prison labor can never be disposed of for anything like the compensation paid for free labor. The inmates of penitentiaries are composed chiefly of persons averse by nature and habit to any honest industry. The most rigorous prison discipline can never overcome this basic difficulty. Even the task system, with its pay for extra work, is only partially effective. Again, the prisoners are mostly unskilled at the time of their entry

and have to learn their work *de novo* while in prison. The contractors have to train a constantly changing force, and are always losing their most experienced and valuable operatives through expiration of sentence, pardon, or parole. Convicts are apt to be wasteful of materials and indifferent as to the quality of their work for they are not afraid of losing their jobs, and they have little prospect of promotion. Foremen competent to direct prison labor are scarce and difficult to obtain, since many of the best men will not work in a prison at any price. Prison contracts are formed for a term of years and for a fixed number of men, so that the contractor is not able to vary his working force according to the needs of his business. Indeed, prisons commonly fill up during slack times and decrease in population when trade is brisk. The laws in some States and public opinion everywhere discriminate against prison products, so that the market for prison-made goods is often more or less restricted.

In addition to these general disadvantages, common to prison labor everywhere, there are more special ones applicable to Fort Madison. The town is small and remote from markets. The railway switch facilities are so defective that materials have to be brought in and finished products taken out in wagons. The shops are old and poorly adapted to their purposes. It cannot be expected, therefore, that contractors will pay as much for labor at this prison as is paid at prisons more advantageously situated.

The penitentiary at Fort Madison is situated in the southeast corner of the State, remote from the center of population. Moreover, owing to its location upon the side of a steep hill, enlargement of the prison is a matter of great expense and difficulty. An additional penitentiary was, therefore, established by an act of the Fourteenth General Assembly (1872)¹⁰⁸ and was located at Anamosa, near extensive stone quarries which furnished an excellent building material. Until 1899 the prisoners at Anamosa were employed in quarrying, cutting, and dressing stone, in the work of construc-

tion and in other necessary work about the prison. In the year last mentioned a contract was made with the American Cooperage Company of Anamosa (a member of the cooperage trust) for the services of from twenty-five to fifty inmates for ten years at five cents per hour for the manufacture of butter tubs.¹⁰⁹ A daily task having been agreed upon between the contractors and the State Board of Control, the prisoners are paid at a proportional price per tub for extra work. Thus, while the State received \$7,217.23 from the cooperage contract during the biennial period ended June 30, 1908, \$4,561.76 were paid to the convicts themselves.¹¹⁰

It had been generally believed that contract labor was illegal at Anamosa. The contract system had, indeed, been expressly forbidden by law as early as 1876.¹¹¹ This restriction was apparently repealed by the act establishing the Board of Control in 1898,¹¹² and it was upon that assumption that the Board acted in entering into the cooperage contract. Nevertheless, the introduction of contract labor at Anamosa was bitterly resented by the labor unions,¹¹³ and the renewal of the cooperage contract was forbidden by the legislature in 1900.¹¹⁴ In 1907 the additional penitentiary was converted into a reformatory for the confinement of first offenders between the ages of sixteen and thirty years; and it was expressly provided that, except to complete existing contracts, "inmates of the reformatory shall be employed only on State account, which employment shall be conducive to the teaching of useful trades and callings so far as practicable, and the intellectual and moral development of the inmates".¹¹⁵

If the purpose of the General Assembly is ultimately to make of the Reformatory at Anamosa a sort of trade school, that object is still far from realization. About thirty men are now employed by the American Cooperage Company, whose contract will expire in 1909. These men are not being taught any regular trade, though doubtless they learn much that would be of value to them in similar manufactories outside. Some fifty short-termers are being worked in the quar-

ries, getting out stone for State buildings at Anamosa, Fort Madison, and elsewhere. Apart from the disciplinary effect of steady industry this work can not be said to possess great educative value. About forty-five prisoners are employed in cutting and dressing the stone. It is claimed that they are not properly taught the stone cutters' trade, but it is clear that they easily could be, though of course only within the limits of the single grade of limestone obtained from the State quarry.

From six to twelve inmates are employed, at different seasons of the year, upon the prison farm—work which is both healthful and profitable, but in which only "trusties" can be employed. A printing office and bindery gives employment to ten men who appear to be acquiring trades at the same time that they are doing work interesting in itself and profitable to the State. The necessary tailoring and shoemaking for the Reformatory requires the labor of ten inmates, and is of unquestionable value to the men so engaged, as well as a saving to the public treasury. Still other inmates are utilized in the kitchen and dining-room, and in caring for the lawns, flowers and shrubbery in the prison yard.¹¹⁶

It would appear, then, that only a minority of the present population of the Reformatory is engaged in employments of great educative value.

From the foregoing account it will be seen that two systems of prison labor are and have long been in use in this State—the contract system and the public account system. Each has its advocates. The writer has been credibly informed that the American Cooperage Company expects to secure a modification of the present law so as to permit of a renewal of their contract at Anamosa. The Chair Company, whose contract at Fort Madison is about to expire, is already negotiating for an extension. On the other hand, organized labor is inflexibly opposed to the contract system, and the Iowa Federation of Labor will probably seek legislation from the next General Assembly looking toward the final abolition of that system in the Iowa prisons.

What, then, are the respective merits of the rival systems? Should either be adopted to the exclusion of the other, or should both be retained? The solution of this problem lies outside the province of the present study. But some discussion of the two systems in the light of Iowa experience may serve to make clearer the nature of the problem and the progress which already has been made toward its solution.

Penologists are agreed that prison inmates should be given some regular employment, both for the preservation of their health and as a means of reformation. It is generally recognized, moreover, that this employment should be made, so far as practicable, productive. Purposive work is always more valuable as a means of training than work done merely to consume time. Nor is there any good reason why men who have forfeited their right to freedom should not be required to contribute to their own support. Care must always be taken, however, not to bring the unpaid or low paid labor of the prison into unfair competition with free industry. Finally, in view of the fact that the great and increasing majority of prison inmates will sooner or later be set at large, their employment during confinement should be such as to aid them in becoming useful members of society upon their release.

Prison industries, then, should be healthful and interesting in themselves, profitable to the State without interfering with outside industry, and of distinct educative value to the prisoners. How far are these conditions fulfilled by the various employments in the prisons of Iowa?

In the first place it is safe to say that none of the employments in either of our State prisons is positively unhealthful. The sanitary condition of all the shops is good; dangerous machinery, wherever used, is properly guarded; all offensive dust is carried away by a system of blowers and pipes more effective than those found in most privately conducted factories. On the other hand, just complaint is made of excessive hours at Fort Madison. The contracts call for a ten hours' *average* throughout the year. Since it is not deemed safe

to have the men out of their cells between sunset and sunrise, the hours of work are reduced to eight during the shortest days and extended to twelve on the longest. The existing contract with the tool company empowers the Board of Control to reduce the average working time to nine hours without affecting the compensation to the State. But this power has never been exercised owing to the absence of a similar provision in the chair contract. Probably such a provision will be inserted in any future contracts made by the Board.

It is usually asserted that the contract system is the most advantageous method of disposing of prison labor from a pecuniary point of view. But the contract system has never made the Iowa penitentiary self-sustaining, even when the number of prisoners employed upon contracts was at a maximum. Indeed, the cost of care and support, without any allowance for prison construction or repair, is now rather more than sixty-two cents per day for each inmate, whereas the maximum contract wage is but fifty-five cents.¹¹⁷ Thus, an able-bodied prisoner working three hundred and sixty-five days a year would not pay for his own maintenance.

Organized labor bases its opposition to contract labor in prisons principally upon the ground of competition with free labor. It is to be remarked, however, that prison inmates form so small a part of the whole labor force of the country that their competition is not to be feared by wage earners unless their labor is concentrated upon particular products having a restricted market. The articles manufactured by contract in the prisons of Iowa—namely, farming tools, chairs, and butter tubs—all have an extended market. Free labor has little to fear from prison competition in these industries, unless they are established in a large number of prisons. But the competition of prison labor may be felt locally, as in the case of butter tubs and pearl buttons, even when it has no appreciable effect in the markets of the world.

After all the main consideration in any discussion of prison employments is the effect of such employments upon

the prisoners themselves. If these unfortunate men can be restored to society as self-sustaining citizens, the saving to the State affected thereby will in a few years greatly outweigh any possible gains from their labor while in prison. The crucial test to be applied to any system of prison labor is, then, does it tend to prepare its subjects for the earning of a livelihood after discharge?

The writer does not believe that the contract system satisfactorily meets this test. Contractors have no interest in the prisoners except to get the utmost possible amount of work out of them. The hours exacted are so long that the men employed upon contract work have little time or energy left for mental and moral improvement. They do not acquire a trade, and they learn little of machinery except, perhaps, a single mechanical process. Even from a disciplinary point of view, contract labor is not the most efficacious. For while a man imprisoned for crime may be convinced of his duty to make restitution to society, he is not so easily persuaded that his labor ought to be exploited for private profit.

On general social and economic grounds cheap labor is an undoubted evil. Not only does such labor tend to depress wages and consequently the standard of living among competing groups, but it fosters an inferior grade of entrepreneurs and inferior methods of production. Prison labor is sought by private contractors solely because it may be obtained cheaply. It is not for the best interests of society that such a system should be maintained if a satisfactory substitute can be found.

Does the public account system afford such a substitute? The same tests may be applied as in the case of the contract system.

It is impossible to deny, in the first place, that much of the labor upon public account at Anamosa has been uneconomically expended. The State quarry is buried under such a depth of drift and worthless stone that it would probably not pay a private owner to work the ledge. Extra guards are required

at the quarry as in all outside work. Notwithstanding this handicap, Warden Madden estimated, some years ago, that prisoners employed in quarrying and dressing stone and in the construction of the prison earned for the State, on the average, seventy-six cents a day over and above the cost of feeding and clothing them.¹¹⁸ The present wardens agree that the prisoners engaged in the manufacture of clothing and shoes for prison use are worth far more to the State than those employed upon private contracts. Financially, then, the public account system, as thus far developed, is by no means a failure.

Does prison labor upon public account come into competition with free labor? Clearly, yes. The prison products displace an equivalent amount of the products of outside industry, whether they are used by the State or sold upon the market. It is probable, however, that no well founded objection can be raised, upon this score, against manufactures carried on by the State for its own use. The quantity of most commodities which would be purchased by the State in any case is so small as to have little influence upon prices. The case might be different were the State to engage in manufacturing for the market. Several projects of this nature were proposed several years ago for the prison at Anamosa,¹¹⁹ but were not adopted.

There is little room to doubt that the public account system is more favorable to industrial training than the private contract system. The State can afford, as a contractor can not do, to subordinate pecuniary profit to larger social ends. Public officials are more likely than are contractors' foremen to take a humanitarian interest in their wards. Schools and other educational features of prison life are more apt to flourish when the prisoners are working only for the State than when they are employed by private manufacturers.

But if it be conceded that the public account system is theoretically better than the system of private contracts the question still remains, is the former practicable? The ques-

tion is not to be answered off-hand. It is to be determined whether the State can furnish suitable employment for its entire prison population without too great drain upon the public treasury and without undue interference with private enterprise.

Hitherto prison construction has absorbed the greater part of the labor employed upon public account. There is still considerable work to be done in the way of extension and improvement both at Fort Madison and at Anamosa. There will always be enough construction and repair work to employ a certain number of men. But clearly construction can not continue to be the principal employment at either prison.

A wider field is offered by the needs of the eight thousand inmates in the various charitable and correctional institutions supported by the State. Manufacture for this population, and possibly for the population of similar county and municipal institutions, might conceivably absorb the entire disposable labor of both the Penitentiary and Reformatory. But the commodities needed for institutional use are very various in kind and closely limited in quantity. To manufacture all the clothing, furniture and implements used in such institutions would require an enormous outlay for equipment and for foremen to direct each department of work. No doubt some of these articles could profitably be manufactured at the State prisons; others probably could not be. The feasibility of any given manufacture will depend largely upon the cost of the necessary plant and the extent of the State's demand for the product. The present Board of Control is favorable to the gradual introduction of such manufactures so far as deemed practicable.

The prison press at Anamosa has already been mentioned in these pages. The printing for the State Board of Control is now being done there, and the advisability of enlarging the plant so as to do all the State printing and binding at the Reformatory is under consideration.¹²⁰ This plan is strenuously opposed by organized labor on the ground that it would

displace union men now employed by the State Printer and State Binder.¹²¹ Their claims are not to be dismissed too cavalierly. The sudden withdrawal of the State printing from the labor market would probably be severely felt locally at least for a time. If, however, the permanent interests of the public would be served by the gradual transfer of this work to the prison, the interest of a small class should not be permitted to stand in the way of the change.

The question of the proper disposal of prison labor is no simple one. Nor can it be said that the problem has been satisfactorily solved in this State. Further experimentation and a more careful study of experience elsewhere are required for the working out of an adequate solution.

IV

MINE LABOR LEGISLATION

Of Iowa legislation in behalf of a particular group of workingmen, the mine laws are much the most important and voluminous. Coal mining is an extra hazardous occupation, and it is an occupation, moreover, which offers peculiar opportunities for the exploitation of employees by employers.

Mining labor laws, accordingly, are of two kinds—those which seek to protect the lives and limbs of miners, and those whose purpose is to secure to miners the full control of wages.

DEVELOPMENT OF THE MINING INDUSTRY IN IOWA

Lead mining in Iowa began in the days of the Spanish occupation and reached its highest development in the period of early Statehood. This industry, which has long ceased to be of much consequence, never played any important part in legislation. Its history is romantic, but belongs rather to the socio-economic than to the legislative investigator.¹²²

Very different is the case of the coal mining industry. Beginning much later, it has enjoyed continued expansion and has received increasing attention from the legislature for a period of nearly forty years. Public attention was first directed to the Iowa coal fields by D. D. Owens, who made a geological reconnoissance of the State in 1847 under the auspices of the Federal Land Office.¹²³ Small country banks were opened at a very early period, supplying fuel for local use.¹²⁴ By 1860 the product had become important enough to be noticed in the United States Census. It was then found that 48,263 short tons of soft coal had been mined within the limits of the State during the preceding year.¹²⁵ Ten years later the output was 283,467 tons, valued at over half a million dol-

lars.¹²⁶ Coal mining was now an established industry in Iowa. Its growth is illustrated by the accompanying table.

TABLE I — DEVELOPMENT OF COAL MINING IN IOWA

YEAR	NUMBER OF MINES	SHORT TONS OF COAL OF ALL GRADES PRODUCED	TOTAL NUMBER OF EMPLOYEES
1859 ¹²⁷		48,263	
1869 ¹²⁷		283,467	
1878-9 ¹²⁷		1,461,166	
1881 ¹²⁸		3,500,000	
1882 ¹²⁸		3,127,700	
1883 ¹²⁸		3,881,300	
1884 ¹²⁸		3,903,438	
1885 ¹²⁸		3,585,737	
1886 ¹²⁸		3,853,374	
1887 ¹²⁸		3,864,490	
1888 ¹²⁸	403	4,435,046	12,483
1889 ¹²⁸	390	3,746,819	12,497
1890 ¹²⁸	344	3,980,502	9,893
1891 ¹²⁸	377	3,721,981	9,130
1892 ¹²⁸	298	4,047,479	9,307
1893 ¹²⁸	337	4,614,872	10,486
1894 ¹²⁸	323	3,777,393	10,258
1895 ¹²⁸	342	3,195,836	10,992
1896 ¹²⁸	355	3,525,490	11,451
1897 ¹²⁸	360	3,799,734	11,678
1898 ¹²⁸	357	4,397,722	10,550
1899 ¹²⁸	358	4,949,310	11,029
1900 ¹²⁸	385	5,117,285	13,041
1901 ¹²⁸	385	5,441,863	13,175
1902 ¹²⁸	334	5,514,206	13,002
1903 ¹²⁸	313	6,185,734	13,192
1904 ¹²⁸	300	6,214,379	16,315
1905 ¹²⁸	326	6,806,011	17,624
1906 ¹²⁸	309	7,017,485	16,825

Iowa now ranks ninth among the States in the quantity and eighth in the value of soft coal mined.¹²⁹ The coal mines give employment to about seventeen thousand men (16,825) besides the large number employed in the distribution of the product and in the industries to which coal mining gives rise. The position of coal among the mining interests of the State is strikingly shown in the subjoined table of mineral products for 1906.¹³⁰

TABLE II

Coal	\$11,619,455
Clay	3,477,237
Stone, including lime.....	577,782
Gypsum	573,498
Lead and zinc.....	26,300
Sand-lime brick	38,255
Mineral paint and mineral water.....	27,540
Sand and gravel	74,380
<hr/>	
Total	\$16,414,447

DEVELOPMENT OF MINING LABOR LEGISLATION

Except for a miners' lien law (in force from 1838 to 1851)¹³¹ mining labor legislation in Iowa did not begin until 1872. The "Act for the Protection of the Life and Health of Miners", passed in that year contained but four sections and related only to the inspection of mines by county authority and to liability of the mine-owners for injuries to employees.¹³² Two years later (1874) was passed an "Act for the Inspection of Coal Mines", which was three times as long and contained many additional provisions.¹³³ This law was replaced in 1880 by the much more comprehensive "Act to Regulate Mines and Mining",¹³⁴ which was passed at the instance of the Knights of Labor.

About 1882 there was organized the "Amalgamated Association of Miners of the State of Iowa", composed of the mining membership of Districts Thirteen and Twenty-eight, of the Knights of Labor. At the State convention, held at

Oskaloosa in the following year, the Association invited the operators to meet their delegates in joint conference. The joint convention (the first of its kind in the history of Iowa coal mining) assembled at Des Moines in July and again in August, 1883, and at the latter meeting appointed a legislative committee of four miners and four operators to prepare a mine law and present the same to the legislature.¹³⁵ The result of their deliberations was the Mines and Mining Act of 1884, which is still the basis of the mine law of Iowa.¹³⁶

The act of 1884 was altered and added to from time to time down to 1897 when the existing mine law was consolidated as a separate chapter of the *Code* (Title XII, Chapter IX). About a dozen acts in amendment of or in addition to the provisions of the *Code* have been passed since 1897. The mine laws of Iowa, which began with the four brief sections of the act of 1872, now form a pamphlet of respectable dimensions. The various sections relate to the means of exit from coal mines, the mode and amount of ventilation, the manner of illuminating, the storage and use of explosives, the proper timbering of rooms and entrances, the safe-guarding of hoisting machinery, the qualifications of foremen and engineers, the public inspection of mines, the weighing and screening of coal, semi-monthly settlement and the payment of wages in cash, and liens for work done in the development of mining property.

MINE INSPECTION

COUNTY INSPECTORS 1872-1880

The mine act of 1872 required the Board of Supervisors in each county where coal or other minerals were being mined to appoint a competent inspector annually, whose duty it should be to inspect any mine within such county upon the written application of the owner, operator, or employees thereof. The Inspector's compensation was fixed at four dollars per day, to be paid by the owners or operators, except that where an inspection was found to have been unnecessary the fees must be paid by the persons applying for the same.¹³⁷

By the act of 1874 it was made the duty of the County Inspector to inspect all mines and collieries in his county, at which ten or more miners were employed, at least twice each year. He further had the right to enter and inspect any mine in his district at such times as he might see fit, and in case of the refusal of the owner or operator to permit inspection he might obtain an order for such permission from the judge of the Circuit or District Court. He must promptly examine any mine upon the written request of five miners working therein or the owner or operator thereof, provided the parties applying should have deposited with the county clerk a sufficient sum to defray the expenses of inspection. The Inspector's per diem was changed from four to three dollars, to be paid out of the county treasury. But where on inspection the requirements of the law were found not to have been complied with, the expense of inspection was charged to the operator. An inspection demanded by employees must be paid for by them if found to have been unnecessary, but if the mine proved defective, the expense of inspection must be borne by the operator.¹³⁸

Under these laws Mine Inspectors were appointed in several of the principal coal mining counties of the State.¹³⁹ These men were practical miners; usually they possessed but little theoretic knowledge of their profession. Their methods of inspection were crude; their powers limited. They were not required to devote their entire time to the duties of their office, but might manage mines of their own or act as "pit bosses" for operating companies. The number of mines in any one county was, in fact, too small to justify the employment of a really competent inspector who should devote his whole time to the work. The system of county inspection was a makeshift at best. It was wisely abandoned in the mines and mining act of 1880.

STATE INSPECTORS 1880-1886

The act of 1880 provided for a State Inspector to be appointed by the Governor and Senate, to hold office for two

years, and to receive a salary of fifteen hundred dollars per annum. The Inspector must "have a theoretical and practical knowledge of the different systems of working and ventilating coal mines, and of the nature and properties of the noxious and poisonous gases of mines, and of mining engineering"; he must not, while in office, act as an agent, or manager, or mining engineer, or be interested in operating any mine. He must examine all mines in the State as often as his duties would permit; he was authorized to inspect any mine, and the works and machinery belonging thereto, at all reasonable times. He was provided with an office in the Capitol at Des Moines and was furnished all necessary instruments at the expense of the State. The Inspector was subject to removal by the Governor for malfeasance in office or gross neglect of duty, after hearing and conviction by a board consisting of two practical miners, one mining engineer, and two mine operators.¹⁴⁰

The foregoing provisions were retained in the law of 1884, except that the Inspector's salary was raised from fifteen to seventeen hundred dollars per annum, with an allowance for stationery and traveling expenses, not to exceed five hundred dollars in any one year.¹⁴¹ But one Mine Inspector was ever appointed under these two laws—Mr. Park C. Wilson, who held the office until the adoption of the district system.

DISTRICT STATE INSPECTORS

It soon became evident that a single inspector could not visit each of the five hundred coal mines in Iowa often enough to secure compliance with the law. Accordingly Inspector Wilson recommended in 1885 that provision be made for one chief Mine Inspector and two assistants.¹⁴² This plan, which would have given unity to the work of mine inspection, was not adopted by the legislature. Instead an act was passed (1886) providing for three Inspectors of equal rank, to be assigned to districts by the Governor. The method of appointment, the term, and the qualifications and duties of the

Inspector remained the same as under the law of 1880. Their salaries were twelve hundred dollars per year, with stationery and traveling expenses as before. The office in the State Capitol was retained.¹⁴³

Hitherto the mine inspectorship had been treated as a political office. The law specified certain qualifications, but required no proof of their possession by the incumbent. In 1888 an attempt was made to put the office on a merit basis. An act passed in that year created a permanent board of examiners, constituted like the trial board already provided for and appointed by the Executive Council for two years. Candidates for the office of Mine Inspector were to be examined by this board and appointments must be made from persons holding certificates of competency granted by the board.¹⁴⁴ Since 1902 all members of the board of examiners, except the mining engineer, must hold certificates of competency as mine foremen, and one at least must be a certificated hoisting engineer. All must have had at least five years' practical experience.¹⁴⁵

The merit system has now been in force for twenty years. Under it but ten different Inspectors have been appointed in the three districts—an average tenure of six years. Notwithstanding some charges of political favoritism, the system appears on the whole to have worked fairly well. It has secured competent Inspectors, and it has given them reasonable security of tenure.

The number of coal mines in Iowa does not now much exceed three hundred. No Inspector has more than one hundred and fifty mines within his jurisdiction.¹⁴⁶ The law requires that each mine having an average daily output of fifty tons or more shall be inspected at least once in every six months,¹⁴⁷ and this requirement would seem very easy to meet. In practice the larger mines are inspected much oftener. Mine inspectors now receive eighteen hundred dollars per year with a traveling allowance of seven hundred and fifty dollars.¹⁴⁸

REPORTS OF THE STATE MINE INSPECTORS

By the act creating the office of State Mine Inspector it was provided that "Said inspector . . . shall annually, on or before the first day of January, make a report to the governor of his proceedings, and the condition and operations of the mines in this State, enumerating all accidents in or about the same, and giving all such information as he may think useful and proper, and making such suggestions as he may deem important as to further legislation on the subject of mining."¹⁴⁹ The law was changed in 1882 so as to require a report on or before the fifteenth day of August next preceding each regular session of the General Assembly.¹⁵⁰ Twelve reports were issued under this requirement for biennial periods ending June thirtieth in odd numbered years. A change to even numbered years was made in 1906.¹⁵¹

The *Mine Inspectors' Report* makes a paper-bound pamphlet of about one hundred pages, of which fifteen hundred copies are issued.¹⁵² The report gives a summary of the number of mines, number of miners and other employees, production of coal, and the number of fatal and non-fatal accidents. Then follows a very detailed report for each district, by counties, with recommendations of the several Inspectors and discussions of current mining topics.

MINE MAPS

Since 1880 it has been the duty of every mine operator to keep in his office, subject to inspection, a map of each mine worked by him, and to have the same corrected to date annually on or before the first day of September. In case the operator fails to provide such maps the Inspector may have one made at the expense of the operator.¹⁵³ Since 1897 a correct map of every abandoned mine must be deposited by the owner thereof in the Inspector's office.¹⁵⁴ Similar provisions are found in the laws of most coal mining states. Reliable maps are necessary to the proper discharge of the mine Inspector's duties. His work would be further facili-

tated if recent maps of all mines within his territory were filed in his office.

LAWS PROTECTING THE HEALTH AND SAFETY OF MINERS

MINE EXITS

A coal seam of any depth is commonly reached by a shaft or slope which serves at once as the hoisting way for coal and as the means of ingress and egress for the men working in the mine. Such an opening is liable to be closed at any time by the caving in of the sides. Access to it may be cut off by falls of roof in the entrances. It may be made unavailable by an accident to the hoisting machinery, or by a fire at the top works. Hence a second mode of escape is of the utmost importance to the safety of the underground workmen. All of the general mining laws of Iowa have contained provisions upon this subject.

The act of 1872 empowered the County Mine Inspector to "determine the number and capacity of additional entrances or shafts . . . necessary . . . to afford ingress and egress to such mines in case of explosions, or the falling-in of the entrance or shaft to such mines."¹⁵⁵ In the law of 1874 the provisions were the same except that they restricted the Inspector's powers to mines employing more than ten persons.¹⁵⁶

By the act of 1880 the owner or agent of any coal mine operated by shaft or slope was forbidden to employ or permit more than fifteen persons at one time to work therein unless there were to every seam of coal two outlets separated by at least fifty feet of natural strata. The State Mine Inspector might require two outlets in smaller mines, subject, however, to an appeal to the Circuit Court.¹⁵⁷

The law of 1884 was much more detailed. Mines thereafter opened, if worked by shaft, must have two outlets separated by not less than one hundred feet of natural strata; if worked by slope or drift and employing more than five men, the openings must be at least fifty feet apart. The rea-

son for this distinction is that a hoisting shaft commonly is and a slope or drift commonly is not covered with buildings the heat from which in case of fire would render useless an escape shaft only fifty feet away.¹⁵⁸ Mines opened under the law of 1880 with an escape shaft less than one hundred feet from the hoisting shaft must be provided with an underground traveling-way from the top of the escape to a distance of one hundred feet from the hoisting shaft. Where the upcast of a ventilating furnace is used as an escape shaft, it must be divided by a solid partition composed of incombustible material for a distance of fifteen feet from the bottom and carried to the surface so as to exclude heated air and smoke from the man way. Every escape shaft must be fitted with safe and convenient stairs at an angle of not more than sixty degrees descent and with landings at easy and convenient distances. Air shafts used as escapes where fans are employed for ventilation must be provided with suitable means for hoisting the underground workmen. Traveling ways leading to escape shafts in all coal mines must be kept free from water and falls of roof. No combustible material may be allowed between any escape shaft and hoisting shaft except such as is absolutely necessary for the operation of the mine. Finally, where two or more mines are connected underground, the owners may make joint provision for the use of each other's hoisting shafts or slopes as escape shafts.¹⁵⁹

In 1888 it was enacted that no escapement shaft shall be sunk within a less distance than three hundred feet from the main shaft without the consent of the District Inspector of Mines, and that no such shaft shall be located until the Inspector shall determine the proper distance for the same. No buildings, except the house necessary to cover the fan, may be put nearer the escape shaft than one hundred feet. But where the escape way is lost or destroyed by the drawing of pillars preparatory to the abandonment of a mine, the mine may nevertheless continue to be operated by not more than twenty men until all of the pillars are drawn.¹⁶⁰

By the mine law of 1880 new mines, if less than two hundred feet deep, were allowed one year to provide a second outlet and two years if they exceeded that depth. But not more than twenty men might be employed at one time until the law was fully complied with.¹⁶¹ The time allowed for constructing outlets in mines over two hundred feet in depth was extended to three years in 1890;¹⁶² in 1897 it was reduced to one year for all mines, and it was further provided that no mine should be operated after the expiration of this period until brought into conformity with the law.¹⁶³

SIGNALING

The requirement of "suitable means" for signaling between the top and the bottom of the hoisting shaft or slope was first made in the mine law of 1874.¹⁶⁴ By the law of 1880 the owner or agent of any coal mine operated by shaft or slope is required, in all cases where the human voice cannot be distinctly heard, to provide a metal speaking tube or other means whereby a conversation may be carried on between the bottom and top of the shaft.¹⁶⁵ This provision is still essentially the same.¹⁶⁶ In practice, however, signaling is done by a code of bells, and a man is usually stationed at the bottom of the shaft to "bell off" the cages.

SAFE GUARDS ON HOISTING MACHINERY

Legislation upon this subject began with the mine law of 1874 which required the operator to "provide safe means of hoisting and lowering persons at the mines, with sufficient cover overhead on every box or carriage used for hoisting purposes".¹⁶⁷ Under the provisions of this act, County Mine Inspectors endeavored with indifferent success to have hoisting cages hooded and brakes placed on hoisting drums, and to see that hoisting cables were securely fastened.¹⁶⁸

The County Inspectors had been hampered in their efforts to secure safety devices by the vagueness of the law. The mines and mining act of 1880 was more specific. It required

overhead covers on all hoisting cages, an approved safety gate at the top of every shaft, an adequate brake on every hoisting drum, an approved safety spring at the top of every slope, and a trail on every car used on a slope (to stop the car in case of accident)—all of said appliances to be subject to the approval of the (State) Inspector. It limited the number of persons who might be carried on the same cage at one trip to ten (or a less number at the discretion of the Inspector), and it forbade the dangerous practice of riding on loaded cages or cars in shafts or slopes.¹⁶⁹

The act of 1884 added to the foregoing requirements an approved safety catch on all carriages used for hoisting or lowering persons. The requirement of a trail on every car was changed by the same act to one on every train of cars used on a slope.¹⁷⁰ Finally, the conductor in charge of a train was excepted from the prohibition against riding out of a mine on a loaded car.¹⁷¹ This last mentioned provision was made necessary by the practice of the mines. Cars are commonly hauled up a slope in trains, or "trips", of eight or ten, and a conductor is invariably sent with each trip. Even under the preceding statute, the Supreme Court had held that the prohibition did not apply to a conductor whose duty required him to ride upon a train.¹⁷²

There has been no legislation in Iowa respecting hoisting ways or appliances since 1884. Our statutes are silent on many points now specifically provided for in other States. There is no requirement that the hoisting cable shall be of metal, or that it shall be long enough to leave a part always upon the drum, or that the drum shall be provided with a flange, or the hoisting engine with a depth indicator, or the cage with hand holds, or that there shall be a passageway at the bottom of the shaft so that men may cross from one side to the other without stepping upon the cage. Such safeguards are voluntarily provided in many mines. The present law appears to be pretty fully complied with. But the loss of life and limb in the hoisting shafts has not ceased.¹⁷³

HOISTING ENGINEERS

The mine law of 1880 provided that "No owner or agent of any coal mine . . . shall knowingly place in charge of any [hoisting] engine . . . any but experienced, competent and sober engineers; and no engineer in charge of any such engine shall allow any person, except such as may be deputed for that purpose by the owner or agent, to interfere with it, or any part of the machinery".¹⁷⁴ In the *Code of 1897* all engines used in or about the operation of mines were brought within the requirements of the law.¹⁷⁵ In 1900 every hoisting engineer was required to have a certificate of competency, to be issued by the State Board of Examiners upon examination or proof of continuous and successful experience for the four years next preceding the application for a certificate.¹⁷⁶

This law appears to have given general satisfaction. A careless or incompetent engineer imperils the life of every man working at the mine. Certification is probably the best means thus far tried to insure competency.

MINE TIMBERING

Custom makes the miner responsible for the care of his own working place, including the setting of props to secure the roof. This custom was recognized in the mine law of 1880 by making it a misdemeanor for any miner "to neglect or refuse to securely prop or support the roof and entries under his control". At the same time it was made the duty of the mine operator to keep a sufficient supply of timber to be used as props and to send down such props when called for.¹⁷⁷ It was formerly the practice for the miners to receive their props at the foot of the shaft, but in 1897 the operators were required to deliver them to the place where needed.¹⁷⁸ There is no statute governing the timbering of main entrances and haulage ways, but it is the operator's duty under the common law to use reasonable care to maintain them in a safe condition.¹⁷⁹

MINE VENTILATION

The first "Act for the Protection of the Life and Health of Miners" (1872) empowered the County Mine Inspector, "when he shall be satisfied of the prevalence of choke-damps (carbonic acid gas) or fire-damps (light carbureted hydrogen gas)", in any mine, to "determine the number and capacity of additional entrances or shafts, or other means necessary for the proper ventilation" of the mine.¹⁸⁰ In these respects the law of 1874 was the same as that of 1872.¹⁸¹

The means of ventilation in use in Iowa coal mines in 1872 were extremely crude. Many small local banks, operated chiefly in the winter season, depended wholly on natural ventilation. Others had only an old stove placed at the bottom of the ventilating shaft to create a draught. Sometimes the stove was replaced by a pot containing a handful of fire. Only the larger mines had regular furnaces. Fans were almost unknown. The methods of distributing air were as inefficient as the supply was inadequate. It is not surprising to be told that men often worked where there was no hint of an air current and where a lamp could not be kept burning.¹⁸²

The County Inspectors did something to improve these conditions. But their powers were too limited and the law too vague to permit them to accomplish much. The act of 1880 was not much more specific. It simply required the State Mine Inspector "to see that all coal mines are well and properly ventilated and that such quantities of air are supplied to the miners at their several places of working . . . as is requisite for their health and safety."¹⁸³ This provision was found very difficult of enforcement. When the Inspector decided that the ventilation in any mine was deficient, the operator could usually induce some of his employees to swear to the contrary, whereupon the court would refuse to grant the injunction prayed for by the Inspector. The first State Inspector accordingly asked, as the result of two years' experience, that the volume of air to be supplied in mines be specified by law.¹⁸⁴

In accordance with this recommendation, the mines and mining act of 1884 ordered that there shall be supplied in every coal mine not less than one hundred cubic feet of air per minute for each person and five hundred cubic feet for each horse or mule employed in such mine.¹⁸⁵ This amount has never been changed. It appears to be ample for non-gaseous mines, such as those in Iowa.

All mines within the provisions of the mine law (mines operated by slope or drift and employing not more than five persons are excepted) must be provided with artificial means for producing ventilation, such as exhaust or forcing fans, furnaces, or exhaust steam, or other contrivances of such capacity and power as to produce and maintain an abundant supply of air for all the requirements of the persons employed in the mine.¹⁸⁶ Of the several modes of ventilation enumerated in the law, the furnace was long the most popular. A furnace is easy to install, and for a small mine gives fairly good results. But as the underground workings become more extensive it is likely to prove unsatisfactory, particularly in the summer months.¹⁸⁷ Its use in this State is now principally confined to mines operated by slope or drift where steam power is not employed.

Ventilating fans were introduced in Iowa in the early eighties—only twenty-four were in operation in 1883.¹⁸⁸ Experience soon demonstrated the superiority of the new device for shallow mines like those of Iowa. A fan costs rather more to install than a furnace, but it is less expensive to operate where steam power is available. Fans are, consequently, in use at practically all the more important mines of the State.

Natural ventilation, finally, is still relied on at some small country banks, operated chiefly in the winter months, when the difference in temperature between the mine air and the external atmosphere is greatest.

Table III illustrates the methods of ventilation employed in the coal mines of Iowa in 1906.¹⁸⁹

TABLE III

METHOD OF VENTILATION	SHIPPING	MARKET OF MINE	
		LOCAL	BOTH
Fan	117	30	147
Furnace	38	89	127
Natural	1	17	18
Steam jet	9	5	14
Grate		5	5
Stove		2	2
Fire in Bucket		1	1
Total number of Mines.....	165	149	314

The proper distribution of air in the mine is quite as important as the total volume supplied, and so the mining laws in many States contain elaborate provisions designed to secure this object. Those of Iowa are less specific. The law of 1884 requires that the air "shall be . . . circulated throughout the mine in such manner as to dilute, render harmless, and expel the noxious and poisonous gases from each and every working place in the mine." Such a mandate sounds well, but it provides no definite test of adequate ventilation. For years after this provision had been placed upon the statute books, men were required to work a hundred feet or more ahead of the air current and the Inspector's power to prevent such a practice remained a matter of doubt. To remedy this condition it was enacted in 1898 that unless by written permission of the Inspector, the air current shall never be at a greater distance than sixty feet from the working face, except in making cross cuts in entries for an air course, when the distance shall not exceed seventy feet.¹⁹⁰

The Iowa law is still silent respecting "splits",¹⁹¹ "stop-pings",¹⁹² doors, the location of stables on airways, and other points covered by the statutes in several of the great coal-mining States. It is weak also in not specifying where the volume of air supplied to the mine shall be measured. The practice of some Inspectors is to measure the current at the foot of the downcast. Plainly an ample current at this point

does not insure a plentiful supply of pure air at the working face. There may be serious leakage through doors and stoppings. Parts of the air course may be choked with debris. Ventilation may be good in one portion of the mine and deficient in another. In some mines allowance is made for loss by maintaining a volume at the downcast in excess of legal requirements. But measurement of the current at the working face and at the upcast would appear necessary to make sure of adequate circulation in all cases.

The ventilation in a majority of the coal mines of Iowa is now fairly satisfactory. The double entry system of mining—so much more favorable than single entry to the maintenance of an air current—has long been in general use. In recent years the practice of dividing the air current into separate “splits” for different portions of a large mine has become common. Many overcasts have been constructed to carry the air across haulage ways, obviating an important source of leakage. Thus the grounds of serious complaint on the score of ventilation, in most of the larger mines at least, have been reduced to two—defective stoppings and inattention to keeping the air courses clear of obstructions. The conditions in the small mines are not so satisfactory.¹⁹³

ILLUMINANTS IN COAL MINES

Owing to the complete absence of explosive gases, safety-lamps are nowhere required in Iowa mines. Legislation upon this subject has related only to the quality of illuminants used. The common miner's lamp is a smoky affair at best, but its bad qualities are vastly increased by the use of inferior grades of oil. Some years ago a mixture of cotton seed oil and kerosene was put upon the market in place of the lard oil formerly used. The adulterated product was less expensive to the miner and more profitable to the company store than pure oil. Hence its use rapidly increased. But it was soon found that the fumes of kerosene are highly offensive and unwholesome in the close air of a coal pit.¹⁹⁴ Accordingly the

State Mine Inspectors recommended and the legislature passed an act (1896) prohibiting the use of anything but pure animal or vegetable oil, or electric lights (paraffine was added in 1897)¹⁹⁵ for illumination in coal mines. The Mine Inspectors were required to take samples of all suspected oils and to have the same tested in accordance with regulations prescribed by the State Board of Health.¹⁹⁶ In 1898 this last provision was repealed and it was made the duty of each Inspector of Petroleum Products, appointed by the State Board of Health, to test "all oil offered for sale, sold or used for illuminating purposes in coal mines," and to brand each barrel or other container of such oil, over his own official signature, and the date of inspection, with the words, "Approved," or "Rejected for illuminating coal mines."¹⁹⁷ This law seems to have worked well; and complaints of adulterated and inferior oils have now practically ceased.

SHOT FIRING

The greater part of the coal mined in Iowa is obtained by blasting, or "shooting," as it is termed in the parlance of the mines. It was formerly the custom for each miner to drill the holes, put in the charges, and fire the shots in his own room, with little or no supervision. Many of the miners in their anxiety to secure as much coal in as short a time as possible neglected the most ordinary precautions. Holes were negligently placed; shots were habitually overcharged; and slack and coal dust were commonly used for tamping. The result of these methods was a series of disastrous explosions, culminating in the Lost Creek catastrophe of January 24, 1902,—the most fatal in the history of Iowa coal mining.¹⁹⁸

The fearful loss of life in these explosions at last aroused public opinion to the need of doing something to prevent their recurrence. After the Lost Creek disaster a commission was appointed consisting of two miners, two operators, and one mine Inspector, to inquire into the causes of mine

explosions in Iowa and the means of preventing them. The commission organized February 17, 1902, and finished its labors before the adjournment of the legislature.¹⁹⁹

It recommended four additions to the mine law: That shot examiners, to be certificated by the District Inspector, be appointed in all mines where coal is blasted from the solid; that the operator be required to sprinkle all entries so as to rid the air of dust; that the use of anything but sand, soil or clay for tamping shots be prohibited; and that it be made unlawful to recharge any shot that had once blown the tamping. A minority report asked for the further enactment that all shots be fired by men employed for that purpose, and that no employees except the shot firers be allowed in the mine at firing time. Of the commission's recommendations, the legislature saw fit to adopt only the first. The shot examiners law of 1902 is as follows:

"In all mines, where the coal is blasted from the solid, competent persons shall be employed to examine all shots, before they are charged. Said examiners to have the power to prohibit the charging and firing of any shot which, in their judgment, is unsafe. Before entering upon the discharge of their duties said examiners shall give proof of their competency to the State Mine Inspector of the district in which the mine, where they are employed, is located, and said inspector shall certify to the operator of each mine the persons who have given proof of their competency to act in the capacity of shot examiners. The State Mine Inspector to have the power to . . . revoke the permission granted, should it appear that a shot examiner is negligent, or careless in the performance of his work."²⁰⁰

Inspection alone is sufficient to prevent many of the careless practices formerly common. But with all precautions, blasting with common black powder remains a dangerous operation. Accordingly the United Mine Workers have made persistent efforts to secure the enactment of a shot firing law similar to that recommended in the minority report of the

Coal Mine Explosions Commission, which would at least limit the loss of life in case of disaster. Bills for such a law have been introduced at several sessions of the legislature but have always been defeated either in committee or upon the floor.²⁰¹ Two objections were urged against the proposed law: That it would increase the expenses of the operator; and that the system of firing once a day would diminish the output of coal per man. Though baffled in the legislature, the mine workers have partly gained their object through joint agreement with the Iowa Coal Operators' Association.²⁰² In most of the mines of this State shot firers are now employed at the expense of the miners, and shots are fired only at the close of the working day when all of the men, except the shot firers, are out of the mine. As a rule the same men act both as shot examiners and as shot firers and the expense is shared equally between the miners and operators. Electrical firing devices, operated from the surface, are used in some of the largest mines in the State.

In practice it has not been found that once-a-day firing reduces the output, except in under-developed mines, where the men work two in a room. Any loss which may be occasioned in this way is more than offset by the improvement in ventilation which the new system has brought about. When mid-day firing was in vogue the air current at many of the mines was insufficient to clear the rooms and entrances of powder smoke until late in the afternoon. Men who were forced to inhale these fumes, containing as they do a high percentage of carbon monoxide and other poisonous gases, often suffered from chronic headache, nausea, and loss of appetite, sometimes ending in serious illness. With the adoption of once-a-day firing this cause of complaint has disappeared.²⁰³

The Commission's recommendation as to tamping material has likewise been adopted in the joint agreement of miners and operators, and the operator is required to furnish the "sand, soil or clay" at convenient places.

Still another recommendation of the Commission, ignored by the legislature but included in the joint agreement, is to the effect that the miner shall keep his working place, and the operator the entries, as free from dust as practicable, and that the entries shall be sprinkled as often as necessary to keep them in damp condition. The operations of mining give rise to clouds of finely-divided coal-dust which is highly inflammable and, under favorable conditions, even explosive.²⁰⁴ Dust has been a large factor in all the serious mine explosions in Iowa. It is generally believed that watering the working face and haulage ways, by clearing the air of dust particles, tends to lessen the probability of such explosions.

CONVEYANCE AND STORAGE OF EXPLOSIVES

Until a few years ago the miners usually received their individual kegs of powder at the top of the shaft and themselves conveyed it to their respective working places. About 1901 a majority of the mine operators, at the miners' request, undertook to deliver the powder where needed at their own expense. To facilitate delivery underground storage rooms were established, where was kept one or two days' supply for the entire mine. The powder was hauled from the foot of the shaft to the storage room in large quantities, often a thousand pounds or more in a single car.²⁰⁵

The State Mine Inspectors early directed the attention of the legislature to the dangers of the above described practices, but no action was taken for several years. Finally in 1907, the United Mine Workers secured the enactment of a law to regulate the transportation and storage of explosives in coal mines. This law requires that the transportation and delivery of all explosives in coal mines shall be done by the operator or by men employed by him for that purpose, and it forbids the conveyance by *electrical*²⁰⁶ process, of powder or other explosives into any coal mine where twenty or more persons are employed until after the miners and other employees have completed their work and have left the mine.

No explosive can be stored in any coal mine. But each miner may have in his own possession two twenty-five pound kegs of powder, and other explosives sufficient for one day's use.²⁰⁷

This statute was the result of a compromise. The bill, as it was introduced and as it passed the Senate, prohibited the conveyance of explosives in coal mines during working hours by any process whatever. The House substitute simply forbade such conveyance by electrical or mechanical process. The words "or mechanical" were struck out by a Senate amendment to the House substitute.²⁰⁸

MINE FOREMEN

The mine foreman, or "pit boss" as he is more familiarly called, occupies a position of grave responsibility. The Superintendent may be and sometimes is without practical experience or knowledge of mining operations. In any case, his attention is largely absorbed in business transactions, while the details of mine management are left to the foreman. Upon the skill, judgment, and fidelity of the latter largely depend both the profitableness and the safety of the mine.

Laws to prevent the employment of incompetent mine foremen have been enacted in many States. Such a law was recommended by the Iowa Mine Inspectors as far back as 1891,²⁰⁹ but it was not until 1900 that the United Mine Workers secured its enactment. The act then passed makes it unlawful for any person to discharge any of the duties of mine foreman, at any coal mine whose daily output exceeds twenty-five tons, unless he holds a certificate of competency issued by the Board of Examiners for State Mine Inspectors. Certificates can be granted only upon successful passage of an oral or written examination or upon proof of continuous employment as mine foreman for the four years immediately preceding the examination.²¹⁰ This law has given general satisfaction. It has led to the employment of a superior type of mine foremen, and it has encouraged ambitious miners to add theoretic knowledge to their practical experience.²¹¹

FIRST AID TO INJURED

The existing joint agreement of Iowa miners and operators requires the operator to "keep sufficient blankets, oils, bandages, etc., and suitable conveyance or stretchers readily available at each mine to properly care for and convey injured persons to their homes after an accident." A similar requirement would be a very desirable addition to the present mine law.

WASH ROOMS

Another desirable provision for the health and comfort of miners is a wash room at the mouth of the mine. Coal mining is an excessively dirty occupation. "A man works eight hours, and spends another hour cleaning up." Most Iowa mines have no toilet arrangements whatever; the men go to their homes just as they come from the pit. The average miner's cabin is itself nearly destitute of conveniences: even water often is difficult to get. Under such circumstances cleanliness in the little home becomes almost impossible. A place where the men might wash and change their clothing could be provided at every mine at no great expense and would do much to alleviate one of the most disagreeable features of coal mining.

PROHIBITION OF DANGEROUS ACTS

The mine act of 1874 made it a misdemeanor for any miner, workman or other person knowingly to injure or destroy any water-gauge, barometer, air-course, or brattice, or obstruct or throw open any air-ways, or carry lighted lamps or matches into places that are worked by the light of safety-lamps, or disturb any part of the hoisting machinery, or open a door in the mine and neglect or refuse to have it closed again, or to enter a mine against caution, or disobey any order given in pursuance of the law, or do any willful act whereby the lives and health of persons working in the mine or the security of the mine, or the machinery thereof, would be endangered.²¹²

The mines and mining act of 1880 omitted the provisions relating to safety lamps, to water-gauges and barometer, and to entering a mine against caution. Of these regulations the first is unnecessary in Iowa mines and the second is probably covered by the prohibition against disturbing any part of the machinery, contained in the act of 1880. The same act made it a misdemeanor for an employee to disobey an order of the superintendent relating to the security of the part of the mine under the charge or control of such employee.²¹³ No material change has been made in the list of prohibited acts since 1880.²¹⁴

ENFORCEMENT OF SAFETY REQUIREMENTS

INSPECTOR'S POWER OF ENFORCEMENT

The County Mine Inspectors appointed under the law of 1872 were without power to enforce compliance with any recommendations they might make to mine operators. This power was conferred by the law of 1874 which authorized the Inspector to proceed by injunction against any operator who should neglect or refuse to comply with the provisions of the mine act for thirty days after written notice of defects should have been given by the Inspector. The court might, if sufficient cause appeared after hearing both parties to the petition, prohibit the further working of the mine in question until the same should have been made safe, and the provisions of the law complied with.²¹⁵

The mines and mining act of 1880 shortened the required notice to twenty days and empowered any court of competent jurisdiction, in session or vacation, on application of the State Inspector to enjoin the operator from working an unsafe mine with more than ten miners at once until made to conform with the law. This remedy was cumulative and did not take the place of or affect any of the proceedings authorized by law for the matter complained of.²¹⁶ In 1888 it was forbidden to operate a mine closed by such injunction "with more persons at once than are necessary to make the im-

provements needed".²¹⁷ The proviso, "save as may be required to prevent waste", was added in the *Code of 1897*. As thus amended the injunction provision of 1880 is still in force.²¹⁸

Enforcement of the mine law by injunction was not found altogether satisfactory in practice. Courts are proverbially slow; and unwholesome or dangerous conditions were sometimes allowed to continue for months before a restraining order was issued and enforced.²¹⁹ To provide a speedier remedy it was enacted in 1888 that "whenever the Inspector shall find men working without sufficient air or under any unsafe conditions he shall first give the Operator or his agent a reasonable Notice to rectify the same and upon a refusal or neglect to do so the Inspector may himself order them out until said Portion of said Mine shall be put in proper condition".²²⁰ With some verbal changes, the law is still the same.²²¹

PENALTIES FOR VIOLATION OF THE MINE LAW

Besides penalties for infraction of particular sections, the mine act of 1884 declares that "Any person willfully neglecting or refusing to comply with the provisions of this act when notified by the mine inspector to comply with such provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding six months, except when different penalties are herein provided."²²² By the *Code of 1897* the maximum jail sentence is reduced to sixty days, the possible fine remaining as before. This penalty attaches to any violation of the mine law by a mine owner or operator, irrespective of notice by the Inspector.²²³ The mine acts passed since the compilation of the *Code* carry various penalties for their infraction.

LIABILITY FOR DAMAGES

The first Iowa mine law, that of 1872, made the mine operator liable in full damages for any injury resulting from

his refusal or neglect to provide such means as the County Inspector should in writing notify the operator to be necessary to protect the life or health of his employees.²²⁴ By the law of 1874 liability attached to the operator for any injury resulting from neglect or violation of any of the provisions of the mine law.²²⁵ This provision was omitted in the mine law of 1880, but was re-enacted by that of 1884.²²⁶ The *Code of 1897* declares that in case an injury happens to those engaged in work because of failure on the part of the mine owner to provide any of the appliances required by law for the safety of the employees, the same shall be held culpable negligence.²²⁷ Even in the absence of this express declaration, the violation of a statutory provision would be negligence *per se*, and an innocent person injured thereby would be entitled to civil remedy by way of damages.²²⁸

EXCEPTION OF SMALL MINES

The special treatment of small mines was begun by the law of 1874 which did not require, though it permitted, the County Inspector to examine mines in which not more than ten persons were employed.²²⁹ Coal mines employing not more than fifteen persons at one time were excepted from all the requirements of the mine law of 1880, but upon the application of the proprietors of, or miners in, any such mine it became the State Inspector's duty to make an inspection and direct and enforce any regulations in accordance with the provisions of the mine law that he might deem necessary for the safety of the miners.²³⁰ This exception was repealed by the General Assembly in the mine law of 1884. But some of the most important sections of that law apply only to mines operated by shaft or slope, while drift or slope mines where not more than five persons are employed, are expressly excepted from the provision relating to escape shafts.²³¹ So, too, mines which have a daily output of less than twenty-five tons are not required to employ certificated foremen or hoisting engineers.²³²

REPORT OF ACCIDENTS AT MINES

The law of 1874 required the operator of any mine, whenever an explosion or other accident causing loss of life or serious bodily injury occurred at his mine, to at once notify the County Inspector; and it was made the Inspector's duty to proceed to the scene of the accident and investigate the cause thereof, and take such measures as he might deem necessary for the safety of the men employed in the mine. Notice of fatal accidents must likewise be given to the County Coroner.²³³

In the mines and mining act of 1880 the provision relating to serious accidents was dropped and the operator was merely required to report loss of life to the State Inspector and Coroner. Another section of the act required the Inspector, in his annual (now biennial) report to the Governor, to enumerate *all* accidents occurring in or about the mines of the State.²³⁴ This discrepancy was remedied by the mine law of 1884 which provides that "the owner or agent of all coal mines shall report to the Inspector all accidents to miners, in and around the mines, giving cause of the same; such report to be made in writing, and within ten days from the time any such accidents occur".²³⁵ The law now requires this report to be made "forthwith".²³⁶

Since 1880 it has been the duty of the County Coroner to hold an inquest upon the body of every person killed in or about any mine and to inquire carefully into the cause of death, and to return a copy of the verdict and all testimony taken at the inquest to the Mine Inspector. No person having an interest in, or engaged in the management of, or employed in, the mine where a fatal accident occurs is qualified to serve on the jury impaneled on the inquest.²³⁷

In accordance with the foregoing provisions from twenty to fifty inquests are held each year. The jury is usually composed of non-experts, and is excessively timid about fixing responsibility for loss of life. Their verdict commonly throws little light upon the conditions which caused the fatality, but

records instead the edifying opinion that "the said occurrence was purely accidental".²³⁸

TABLE IV — ACCIDENTS TO THE COAL MINES OF IOWA, 1888-1906 ²³⁹

YEAR	NUMBER KILLED	NUMBER FATAL AND SERIOUS ACCIDENTS	NUMBER KILLED PER THOUSAND EM- PLOYED	NUMBER ACCIDENTS PER THOUSAND EMPLOYED	NUMBER MEN KILL- ED PER MILLION TONS COAL MINED	NUMBER FATAL AND SERIOUS ACCIDENTS PER MILLION TONS COAL MINED
1888	28	118	2.2	9.45	6.3	26.60
1889	32	105	2.6	8.48	8.5	28.27
1890	15	98	1.5	10.1	3.77	25.12
1891	21	87	2.3	8.3	5.64	23.4
1892	22	69	2.36	7.4	5.5	17.25
1893	32	84	3	8.0	6.94	18.22
1894	19	47	1.9	4.6	5.0	12.43
1895	20	62	1.8	5.6	6.25	19.3
1896	22	71	2	6.2	6.23	20.1
1897	21	75	1.8	6.4	5.52	19.74
1898	26	67	2.5	6.4	5.9	15.20
1899	20	46	1.8	4.2	4	9.3
1900	29	73	2.2	5.6	5.8	14.6
1901	27	78	2	6	5	12.5
1902	55	134	4.2	10.3	10	24.36
1903	21	79	1.6	6	3.39	11.13
1904	31	115	1.9	7	5	18.55
1905	24	124	1.4	7	3.53	18.23
1906	37	153	2.2	9.1	5.3	21.85
Av. 1888-1906	26.42	88.68	2.15	7.23	5.34	17.92
Av. 1888-1893	25	93.5	2.38	8.90	6.12	22.86
Av. 1894-1897	20.5	63.75	1.85	5.74	5.75	17.89
Av. 1898-1906	30	96.5	2.16	6.96	4.86	15.69

Table IV shows the fatal and serious accidents reported by the State Mine Inspectors from 1888 to 1906. It will be observed that the number of fatalities and injuries per thousand was greatest in the period 1888 to 1893, that it fell off in the years 1894 to 1897, and again rose in the third period

from 1898 to 1906. The period 1894 to 1897 was one of curtailed coal production due to financial depression. The lesser number of accidents during these years is doubtless to be attributed to the circumstance that the mines were idle a large share of the time. Since 1898 there has been a steady and rapid increase in the production of coal. Not only have more men been employed but they have worked more days in the year. Hence it is but natural that more accidents should have occurred. The number of men killed and injured per million tons of coal mined affords a truer index of safety, and this number shows a gratifying diminution for each successive period. But for the Lost Creek disaster of 1902, which makes that year quite exceptional, the showing for the third period would be much improved. And there is no reason to doubt that, if statistics were available for the earlier years of the coal mining industry in the State, they would show an even heavier proportional loss of life and limb than the period 1888 to 1893.

TABLE V — COMPARATIVE LOSS OF LIFE IN COAL MINES ²⁴⁰

LOCALITY	PERIOD	NUMBER KILLED PER THOUSAND EM- PLOYED	NUMBER KILLED PER MILLION TONS OF COAL MINED
Iowa	1898-1906	2.2	5.33
United States	1898-1906	3.22	5.92
Great Britain	1894-1906	1.35	4.64
Belgium	1898-1906	1.02	6.19
France	1901-1905	.91	4.59

From the table of comparative loss of life, it appears that the fatality in the coal mines of Iowa is somewhat lower than the average for the United States, though the rate per thousand is far higher than in most European countries. The favorable showing as compared with the rest of the Union is probably due to the non-gaseous character of Iowa mines

and also to the high level of intelligence among the miners of this State. The lower mortality in European mines is attributed to rigorous public supervision and to the smaller daily output per man.²⁴¹

TABLE VI — CAUSES OF COAL MINE ACCIDENTS IN IOWA, 1888-1906²⁴²

ACCIDENTS DUE TO	FATAL ACCIDENTS	PER CENT	ALL ACCIDENTS	PER CENT
Falls of roof and coal.	285	56.77	967	57.39
Powder explosions, premature and defective shots.	64	12.74	209	12.4
Mine cars.	40	7.96	230	13.65
Cage, shaft or hoisting apparatus.	47	9.56	97	5.75
Dust explosions.	37	7.57	72	4.27
Miscellaneous causes.	29	3.79	110	6.56
All causes.	502	100	1685	100

As is shown by Table VI almost three-fifths of the casualties in the coal mines of Iowa are due to falls of roof and coal. Moreover, the number of accidents from this cause does not appear to be diminishing. In the year 1906 it appears that 64.9 per cent of all coal mine fatalities in the State were caused by falls of roof and coal, as compared with 56.7 per cent for the entire period 1888 to 1906. The number of deaths from this cause for each thousand men employed averaged 1.24 for the entire period; for 1906 it was 1.43. This rate is very little less than the average for the United States (1.7 in 1906); but it is three times as great as in France or Belgium.

Powder explosions were responsible for more than one-eighth of all deaths and injuries in Iowa mines during the period under review. There is good ground to hope, how-

ever, that the number of accidents from this cause will be much reduced by the system of shot firing now in vogue.

Gas and dust explosions, which caused eleven per cent of all coal mine fatalities in the United States during the year 1906, were responsible for less than eight per cent of those in Iowa for the nineteen years, 1888-1906. Of the thirty-seven deaths from this cause, twenty occurred in the single catastrophe of Lost Creek.

More than one-sixth of the fatalities and a still greater proportion of non-fatal injuries in the coal mines of this State are due to accidents at the hoisting shaft and in the handling of mine cars. It is not too much to say that most of these accidents might be prevented by more stringent laws, more aggressive enforcement of safeguards by the State Inspectors, and better discipline at the mines.

LAWS TO PREVENT THE EXPLOITATION OF MINERS MINERS' LIEN

From 1838 to 1850 any person employed to work on mineral ground had a lien for the value of his labor against any mineral found on the lot where he was employed.²⁴³ This law was intended to and did apply principally to lead mines. Coal miners did not receive like protection until 1890 when it was enacted that "Every laborer or miner who shall perform labor in opening and developing any coal mine, including sinking shafts, constructing slopes, or drifts, mining coal and the like, shall have a lien upon all the property of the person, firm or corporation, owning, constructing or operating such mine, used in the construction or operation thereof, including real estate, buildings, engines, cars, mules, scales and all other personal property, for the value of such labor . . . upon the same terms with the same rights and to be secured and enforced as mechanics' liens are secured and enforced".²⁴⁴

SCALE LAWS

Coal mining is usually paid for by weight. Inasmuch as the operator furnishes the scales, employs the weigh-master,

and keeps the accounts, he has an opportunity, if he is unchecked, to systematically defraud his employees of a part of their wages. The weigh-master has a similar chance to favor one miner at the expense of another. Even without intentional wrong the scales may be allowed to get out of order or may be incorrect. Such abuses did prevail, sometimes to a serious extent, in the earlier history of coal mining in Iowa.²⁴⁵ Three preventives have been applied by statute; the check-weighman, the sworn weigh-master, and the public inspection of mine scales.

The right of miners to appoint a check-weighman who is paid by themselves, and who has power to examine all scales and apparatus used for weighing coal and to see each miner's coal weighed and recorded was first secured by the mines and mining act of 1880.²⁴⁶ Check-weighmen are now regularly employed at all shipping mines. An act "Providing for the Weighing of Coal at Mines", passed in 1888, retains the earlier provision for check-weighmen, and further requires the weigh-master to be duly sworn "to keep the scales correctly balanced, to accurately weigh, and to record a correct account of the amount weighed of each miner's car of coal". The check weigh-man must likewise make and subscribe on oath, "that he is duly qualified and will faithfully discharge the duties of check-weighman". The oaths of both weigh-master and check-weighman must be conspicuously posted at the place of weighing.²⁴⁷

The same act provides that the operator of each coal mine, at which the miners are paid by weight, shall provide "suitable scales of standard make for the weighing of all coal mined". A separate act of the same year provides that it shall be the duty of the Mine Inspectors "to examine, test and adjust as often as occasion demands all scales, beams and other apparatus used in weighing coal at the mines".²⁴⁸ The Inspectors usually test scales only when they are requested to do so; and about one-third of the scales tested are found defective.

THE SCREEN LAW

Soft coal before being loaded for shipment is commonly passed over a screen or series of screens by which it is divided into several grades according to size, as lump, nut, pea, and slack. These grades are all marketable, but the miners usually receive pay only for the lump coal. Since the miners have to blast and load all the coal irrespective of size, they insist that they should be paid for all of it "mine run"—that is, just as it comes from the mine. On the other hand, the operators contend that if the miners' coal were weighed before being screened, the men would be careless about breaking up the large lumps and would load an abnormal percentage of waste and slack. They also assert that the "screenings" are allowed for in computing the rate for lump coal and the scale would have to be reduced if the mine run basis of payment were adopted. Such is the screen question which has been the source of endless controversy in Iowa and has given rise to some of the most prolonged and expensive strikes in the history of the State.²⁴⁹

The only attempt to deal with the screen question by statutory regulation is contained in an act of 1888 which provides "That all coal mined in this State under contract for payment by the ton or other quantity shall be weighed before being screened *unless otherwise agreed upon in writing*,²⁵⁰ and the full weight thereof shall be credited to the miner of such coal; and eighty pounds of coal as mined shall constitute a bushel, and two thousand pounds of coal as mined shall constitute a ton. *Provided* that nothing in this act shall be so construed as to compel payment for sulphur rock slate black jack or other impurities including slack²⁵¹ and dirt which may be loaded with or amongst such coal". When damages are sustained by reason of failure to weigh and credit any coal mined to the proper person, they may be recovered at any time within two years, and the fact that the miner has knowledge of the violation of the law at the time does not constitute a bar to recovery.²⁵²

The saving clause, *unless otherwise agreed upon*, was inserted by the Senate Committee on Mines and Mining.²⁵³ The amendment was intended to and did render the law inoperative. The abstract right to enter into agreements for mine run payment already belonged to the miners; the law secured them nothing more. Had they been able to enforce their demands by contract they would have needed no law.

The effect of the Senate amendment was fully appreciated in both branches of the General Assembly. Nevertheless, it was finally accepted by a majority of the advocates of the original House bill. The miners' representatives had in fact agreed to make concessions upon this bill in order to secure favorable action upon others then pending. Moreover, it was hoped by friends of the measure that a screen law being once placed upon the statute books, the obnoxious proviso might be removed at a later session.²⁵⁴ This hope has not been realized, for the law stands to-day as it was enacted in 1888.²⁵⁵ Nor have the mine workers ever been able to secure a mine run basis from the operators.

Except for the abortive mine run law, there is no legal regulation of coal screening in this State. Both the size of screen and the opening between the bars have furnished frequent occasions of dispute. Formerly no uniform practice prevailed. The screens at some of the mines were compared to cattle guards on the railways; everything, it was said, went through them except the largest lump coal.²⁵⁶ Variations still exist in the different districts of the State, but the size and character of the screens are now regulated by the joint agreement of miners and operators.

THE TRUCK LAW

Most coal mines are located at a distance from centers of population, so that camps must be formed in their vicinity for the accommodation of employees. Moreover, since, in Iowa at least, a mine is worked out in a few years' time, a camp is a rather temporary affair. Under such circum-

stances independent capital is loathe to invest and the construction of a camp is left wholly to the mining corporation. The mine operator buys or leases an extensive tract of ground and erects offices, dwellings, and other needful buildings, including a general store. The store very frequently is conducted under a different firm name, but almost always is controlled by the operating company itself; and it handles everything (except alcoholic drinks) used by miners and their families.

The maintenance of "company houses" and a "company store" may be a necessity, as is claimed; it certainly is good business policy for the operator. A considerable share of the wages-bill is deducted for house-rent; the greater part of the rest comes back through the store, with a handsome profit on the turn. It is the chance of increasing these profits that tempts the operator to abuse his power. Through his control of the adjacent land he may effectually exclude competition; and through fear of discharge he may coerce his employees to trade at the company store, charging them exorbitant prices for everything they buy.

There seems to be no doubt that in the eighties this form of oppression attained serious proportions. Employees were required to live in company houses and trade at the company store. If they declined, their services were dispensed with. Miners were even compelled to purchase a certain quantity of powder, oil, and other supplies on which the profits were unusually high, whether they needed them or not. At some of the mines wages were paid in scrip or "store checks" redeemable only in merchandise.²⁵⁷

After the failure of earlier attempts,²⁵⁸ the Knights of Labor and the Amalgamated Association of Miners finally secured the enactment of a truck law in 1888—the same year that the scale and screen laws were placed upon the statute books. This act subjects to heavy penalties any person, firm, company, or corporation, owning or operating a coal mine where ten or more persons are employed which shall sell, give,

deliver, or in any manner issue, directly or indirectly, in payment for wages due for labor, or as advances on the wages of labor not due, any script, check, draft, order or evidence of indebtedness, payable or redeemable otherwise than at their face value in money. To compel, or seek to compel or coerce an employee of any person, firm, company, or corporation to purchase goods or supplies from any particular person, firm, company, or corporation, was made a misdemeanor punishable by a fine not exceeding five hundred dollars or imprisonment not exceeding sixty days.²⁵⁹

The truck act, like the screen law passed at the same session of the legislature, was the result of compromise. In explaining his vote the author of the House bill said that "It was hoped by the friends of this measure that a law could be passed protecting the interests of the wage workers of the State, regardless of the labor in which they are engaged, but such seems to be impossible at this time; but as this will apply to more than 12,000 laborers in Iowa, and is a step in the right direction, and as I believe, will lead in the near future to the adoption of a law similar to the one proposed in the original bill, I vote aye".²⁶⁰ The expectation of early amendment, as in the case of the screen law, was not fulfilled. Both acts remain unaltered at the present day.²⁶¹

The truck law of 1888 and the growth of a powerful labor union (the United Mine Workers) have done away with the worst abuses of former times. Payment in script has long since been abandoned. Coercion of employees is nowhere openly attempted. Prices for most staple articles at the company stores are not now higher than credit prices elsewhere.²⁶²

Even at the present day, however, truck has not wholly disappeared from the mining industry in Iowa. A miner who does not spend a part of his wages at the company store, or who persists in renting non-company houses, still is likely to be discriminated against by the operator. And the operator has many ways of making his displeasure felt without resorting to open coercion. Thus the coal companies are still able

to make two profits—one from the public and one from their employees.

The housing system, especially, is too often made a means of extortion. At many of the camps, to be sure, the men are encouraged to own their homes. In the larger mining towns one may see rows of comfortable miners' houses, many of them mortgage-free. But such thrift is rather the exception than the rule among coal miners. The immense majority are tenants, and most of them live in company houses. Generally, indeed, there are no other dwellings to be had within practicable distance of the mines. The company houses are flimsy, comfortless structures, frankly ugly, unprovided with conveniences of any sort, and built in sections, so that they can be loaded on flat cars for shipment from one camp to another. Such a house, costing but a few hundred dollars to erect and occupying a small plot of cheap land, rents at the rate of one dollar per month for each room.

SEMI-MONTHLY PAYMENT

The truck law of 1888 as it passed the House contained a section which required that every person, firm, or corporation engaged in mining coal should pay all wage workers twice in each month.²⁶³ This provision was struck out, however, by the Senate.²⁶⁴

It was the practice of mine operators at that time to pay their employees' wages about the fifteenth or twentieth day of the month following that in which they were earned. Some twenty days' wages were thus withheld from all the men while a new employee might have to work six or eight weeks before drawing his first pay. The miners were compelled by this system to rely on credit at the company store for the necessities of life between paydays, paying the higher prices which credit always involves. The demand for weekly or fortnightly payment was, therefore, a demand for a measure of economic independence. With the cash in his pocket the miner could buy where he pleased.²⁶⁵

All demands for legislation governing the frequency of payment were successfully opposed by the mine owning interests until 1894. The principal section of the act then passed reads as follows:

“That any person, firm or corporation operating any coal mine in Iowa in which more than two men are employed shall, *upon demand* pay their employees in lawful money of the United States, the first and third Saturdays of each month the full amount of wages earned by them and remaining unpaid for the term of two weeks next preceding the week in which payments are made, and in no case shall any person, firm or corporation operating coal mines in this State withhold from their employees more than the amount of three weeks’ earnings at any one time.”²⁶⁷

An employee whose wages are wrongfully withheld for five days after demand therefor in writing may recover the full amount due him at the time of making his demand, with a penalty of one dollar for each succeeding day, not however exceeding double the amount of wages due, and a reasonable attorney’s fee.

In 1900 it was enacted that mine employees’ wages earned during the first fifteen days of each month shall be paid not later than the first Saturday after the twentieth of the same month, and those earned after the fifteenth of each month, not later than the first Saturday after the fifth of the succeeding month.²⁶⁸

The law of 1894 was denounced as class legislation, as violating the freedom of contract, and as clearly unconstitutional.²⁶⁹ In regard to the first contention, a bi-weekly, or preferably a weekly, payment law is desirable for all classes of manual labor. But the evil of deferred payment was more flagrant in the coal mining industry than in any other in the State. A reform may well begin where the abuse is worst.

The plea for freedom of contract is here, as in all labor disputes, purely specious. It is ever made, not by persons concerned for the welfare of the working classes, but by the

defenders of private interests. Laborers do not particularly value the right not to receive their wages in money, the right to be discharged at will, the right to assume extraordinary risks without compensation, and similar rights so loudly defended by lawyers and so solemnly asserted by courts. Between economic unequals liberty of contract means only liberty of the strong to oppress the weak. A large part of labor legislation—child labor laws, factory laws, truck laws, wage assignment laws—restricts the theoretic freedom of individual contract; but in so doing it promotes real liberty of action.

The writer has not been able to find any case in which the constitutionality of the bi-weekly wage law was called in question. But the law has stood unchallenged for fourteen years, and judgments awarded in accordance with its terms have been affirmed by the Supreme Court.²⁷⁰

GYPSUM MINES²⁷¹

Although the existence of the Fort Dodge gypsum beds has been known for more than half a century²⁷² and although plaster mills were erected in that vicinity as early as 1872,²⁷³ the working of the deposits on a large scale is of recent development. So late as 1889 the product of crude gypsum in Iowa amounted to but twenty-one thousand short tons.²⁷⁴ In 1906 the output was two hundred and eighty-six thousand tons and the gypsum products of the State were valued at nearly six hundred thousand dollars.²⁷⁵

The Fort Dodge gypsum deposits occur in beds of ten to twenty-five feet in thickness directly underlying the glacial drift, which here ranges in depth from one to one hundred feet.²⁷⁶ In the earlier days of the plaster industry in this region, the gypsum was obtained by first stripping off the drift at points where this deposit was thinnest and then quarrying the rock like ordinary building stone.²⁷⁷ In 1895 the first plaster mill was built on the open prairie, where, owing to the great thickness of the drift, a vertical shaft was sunk to reach the gypsum.²⁷⁸ The new method proved so success-

ful that it was quickly adopted by other establishments, and the quarries were soon superseded by mines.

The greater part of the gypsum output in the Fort Dodge district is now mined by means of shafts or slopes. The mines are worked by a combination of the room and pillar with the retreating system²⁷⁹ and the rock is obtained by blasting in much the same manner as solid shooting coal.²⁸⁰ Gypsum mining thus presents many of the same problems as coal mining in the Iowa field. These problems so far as they affect the health and safety of operatives are: ventilation, security of entrances and working places, safe-guards at the hoisting shaft, and provision for escape when for any reason the hoisting shaft becomes unavailable.

In regard to the amount of ventilation needed, the gypsum mines are free from gob fires and from the possibility of dust explosions. On the other hand, the practice of blasting throughout the working day, which has been for some time discontinued in the coal mines of this State, is still in vogue at the gypsum workings. The latter, consequently, are seldom free from powder smoke or the still more poisonous fumes of high explosives.²⁸¹ Other sources of contamination, such as pit lamps and the respiration and excreta of men and animals, are of course present in gypsum mines as in all underground workings. It may be remarked in passing that all the Fort Dodge mines are ventilated by fans and that the methods of distributing the air current are the same as in the coal mines of the State.

The entries in the Fort Dodge mines are quite high, commonly as much as nine or ten feet. The danger to drivers from overhead obstructions is, accordingly, much less than in most coal mines of the Iowa field. The roof, too, barring fissures, is generally good, though accidents from falling rock are by no means uncommon. Considerable trouble is occasioned by percolating water, owing to numerous vertical fissures in the gypsum beds. On the whole, however, there seems to be little ground of complaint as to the safety of

rooms and entries at the gypsum mines, so far as this depends upon the mine operators.

The methods of raising and lowering men and materials at the gypsum mines do not differ in any important respect from those in use at coal mines, except that the former mines are much shallower. The necessity of safe-guarding the hoisting apparatus is the same in both cases. A second outlet is, if anything, even more necessary at a gypsum mine, because of the extensive plaster mills, composed of inflammable materials, which are erected in close proximity to the main shaft.

Inasmuch as the Iowa mine law is so framed as to apply only to coal mines, the gypsum industry was allowed to grow up without State supervision. As the mining operations became more extensive and the number of underground employees mounted into hundreds, some of the characteristic evils of an unregulated mining industry made their appearance.

Accordingly, when a few years ago a gypsum workers' union was organized in this State an earnest effort was made to have the provisions of the mine law and the jurisdiction of the State Mine Inspector extended over the gypsum mines. A bill for this purpose was presented to the General Assembly of 1904,²⁸² and, backed by the State Federation of Labor, passed the Senate without opposition.²⁸³ But in the House the mine operators, with the aid of Representative Wright of Webster County (the home of gypsum mining) succeeded in defeating the bill.²⁸⁴ Later in the same session a concurrent resolution was passed, providing for an investigation by the Commissioner of the Bureau of Labor Statistics and the Mine Inspector of the Third District, and a report to the Governor upon the conditions found.²⁸⁵ Three inspections of the gypsum mines were made under the authority of this resolution; the first in September, 1904, and the last in June, 1905. At their first visit the Inspectors found some of the mines deficient in ventilation and others without escape shafts. At the largest mine in the district the escape shaft was provided

only with ladders, instead of a suitable stairway. These defects were largely remedied before the last inspection. It is said, also, that considerable improvement had been made in anticipation of the investigation.²⁸⁶ At all events, the final report was highly favorable to the gypsum operators.²⁸⁷ There was no further attempt to secure legislation until 1907. By that time the gypsum workers had abandoned their organization and the bill died in committee for want of adequate support.²⁸⁸

Two objections are urged against the proposed inclusion of gypsum mines under the mine law: that State provision of this industry is unnecessary; and that it would be impracticable in any case to apply the same regulations to gypsum as to coal mining.

As to the second of these contentions, it is hard to see wherein the extension of the mine law to their industry would work a hardship upon the gypsum operators. The statutory provisions relating to ventilation, to safe-guards at the hoisting shaft and on hoisting apparatus, to escape shafts and escape ways, to the care of rooms and entrances, to the transportation and storage of explosives would appear equally applicable to all mines worked on the same general principles, whether their product is coal, or shale, or gypsum. Competent foremen and engineers are as necessary in the one kind of mine as in the other, though there may be merit in the suggestion that the gypsum industry should be represented on the examining board and that a special examination should be set for those seeking certificates as foremen of gypsum mines. The screen law would, of course, have no application to gypsum or shale mines, and the truck and wage laws are not at present needed. But these laws affect only the transgressor: they could do no harm in any case. The scale law might be beneficial at those works where the miners are paid by the ton.

The plea of non-necessity is not very convincing. It may be true that the gypsum mines are at the present time in a

fairly safe and sanitary condition. But the purpose of inspection laws is preventive rather than corrective. Already there are numerous complaints of defective brattices and stoppings, of choked airways, and of sluggish circulation. There is little reason to doubt that regular inspection would improve these conditions and prevent the growth of more serious evils.

The gypsum mines are few in number and near together. Their inspection would, therefore, be a comparatively easy task, and would entail very little expense to the State. Under all the circumstances it seems anomalous to require at least semi-annual inspection of every coal mine having a daily output of fifty tons or more and to leave without any supervision these almost equally dangerous mines which range in individual capacity from one hundred to five hundred tons per day.

V

RAILWAY LABOR LEGISLATION

The chief interest in Iowa railway labor legislation attaches to efforts to lessen the fearful loss of life and limb attendant upon the operation of railroads. Though railway building in Iowa began in the fifties no record of accidents was kept until 1878, when the State Board of Railroad Commissioners was established.²⁸⁹ During the twenty-nine years beginning with that year and ending June 30, 1906, the railway companies reported 1,928 employees killed and 15,918 injured within the limits of the State.²⁹⁰ Unfortunately the Commissioners' statistical reports since 1892 do not admit of analysis,²⁹¹ but for the earlier half of the period the principal causes of death and injury were as shown in the following table:

TABLE I—ACCIDENTS TO RAILWAY EMPLOYEES IN IOWA, 1878-1893²⁹²

	ACCIDENTS DUE TO	KILLED	INJURED	CASUALTIES	PER CENT OF ALL ACCIDENTS TO EM- PLOYEES
Coupling and uncoupling cars	213	2144	2357	34.2	
Falling from trains	306	614	920	13.3	
Getting on and off trains in motion ²⁹³	62	365	427	6.2	
Collisions	94	290	384	5.5	
Derailments	63	231	294	4.3	
Overhead obstructions	26	73	99	1.4	
Being caught in frogs ²⁹⁴	41	32	73	1.0	
Other train accidents ²⁹⁵	44	124	168	2.4	
Operation of trains	849	3873	4722	68.5	
Other causes	178	1989	2167	31.5	
All causes	1027	5862	6889	100.0	

The above table is not absolutely trustworthy, since the returns upon which it is based are confused, scattered, and sometimes conflicting. Taking the figures at their face value, however, they show that 68.5 per cent of all accidents to employees (849 deaths and 3,873 injuries) during these fifteen years occurred in the operation of trains. It is evident from this statement that the loss of life and limb fell most heavily upon train crews, who would naturally be the principal sufferers from train accidents. This inference is abundantly supported by the record for 1890, 1891 and 1892, the only years for which complete data are available. Analysis of the returns for these years gives the following results:

Average number of all railway employees in Iowa.....	27,377
Average number of railway trainmen ²⁹⁶ in Iowa.....	5,896
Number of all railway employees killed in Iowa.....	235
Number of railway trainmen killed in Iowa.....	134
Number of all railway employees injured in Iowa.....	1,767
Number of railway trainmen injured in Iowa.....	930

During these three years then, 21.5 per cent of the railway employees in Iowa suffered 57 per cent of the deaths and 52.6 per cent of the injuries sustained by railway employees in the State. Of trainmen, one in every one hundred thirty-two was killed, and one in seventy-seven injured.

Nothing could more clearly demonstrate than do the unfeeling figures just recited that legislation for the protection of railway employees should be primarily directed toward securing greater safety in the operation of trains. Iowa laws looking to this end are those requiring automatic couplers and train brakes, regulating the height of overhead obstructions, limiting the hours of continuous employment for certain classes of railway operatives, and providing for the investigation and report of accidents on railways.

AUTOMATIC COUPLERS

More than one-third of the accidents to railway employees during the period 1878-1892 (showing a total of 213 deaths

and 2,144 injuries) were received in coupling and uncoupling cars. These casualties nearly all occurred in the freight service. They were largely due to the use of link and pin couplers which required men to go between the ends of cars in order to couple or uncouple them. Mangled hands formed the chief item in the list of injuries from this cause. A brakeman could seldom work for any length of time without losing one or more fingers. The railway officials insisted that a majority of coupling accidents were due to carelessness on the part of the men injured; but, as a matter of fact, it required a rare union of skill, vigilance, and good fortune to escape death or maiming in handling link and pin couplers.

With the old type of coupler in use more than thirteen thousand persons were killed or injured in the United States during the seven years 1878-1884 from coupling cars alone.²⁹⁷ This fearful toll of human life and limb early directed inventive genius to the problem of a safety coupler. Some thirty-five hundred coupling devices were patented before 1885, and twelve of this number were approved by the National Master Car Builder's Association after an extended series of experiments at Buffalo in September, 1884.²⁹⁸ It was necessary, however, for some standard type of coupler to be selected for adoption, since cars belonging to all the leading roads became scattered over each other's lines in the course of traffic. After several years of discussion and experiment the Janey-coupler was finally agreed upon by the Master Car Builder's Association in 1887, and their choice was ratified by the principal railways.²⁹⁹

But the action of master car builders and railway officials did not end the matter; there still remained the task of persuading directors to incur the heavy initial expenditure necessary to provide the new equipment. The directors, more concerned about the size of dividends than the saving of human life, procrastinated. So the killing and maiming of men went on undiminished for years after a perfectly practical remedy was known to exist. It was the pressure of public authority,

and not the voluntary action of railway companies, which finally brought about the adoption of safety couplers.³⁰⁰

Legislation requiring automatic couplers to be placed upon all new or repaired cars was enacted by Massachusetts as early as 1884. Her example was speedily followed by New York, Michigan, and other States. Similar legislation was repeatedly recommended by Railway Commissioner Coffin of the Iowa Board,³⁰¹ and bills for this purpose were introduced at successive sessions of the General Assembly of Iowa,³⁰² but none became law until 1890.

The automatic-coupler and power-brake law of 1890 was drawn by Mr. L. S. Coffin of Fort Dodge, who for years as a member of the Iowa Board of Railroad Commissioners had been agitating for the adoption of safety appliances on railways. The bill was warmly supported by the Knights of Labor and by railway trainmen; it was accepted as inevitable by some of the leading railroads of the State and though opposed by others passed with but seven dissenting votes in the House and without dissent in the Senate.³⁰³ It is worthy of note that the Iowa law became one of the models for the act of Congress three years afterward, and that Mr. Coffin was very active in securing the passage of the latter.

The Iowa statute makes it unlawful "to put in use in this State any new cars or any cars that have been sent in to the shop or shops for general repairs, or whose draft rigging has to be repaired with a new draw-bar or bars, that are not equipped with safety or automatic couplers, such as will not necessitate the going between the ends of the cars to couple or uncouple them, but operated from the side of the car". From and after the first day of January, 1895, all cars used in the transportation of freight or passengers upon any railroad in Iowa must be so equipped. A fine of not less than five hundred nor more than one thousand dollars is prescribed for each violation; but the law does not apply to cars belonging to railroads other than those of Iowa and employed in interstate commerce.³⁰⁴

The average life of an old-style draw-bar was estimated at three and one-half years.³⁰⁵ It was expected, therefore, that automatic couplers would have completely replaced the link and pin before the expiration of the time limit fixed by the law. This expectation was not realized, for the legislature, in 1892, postponed until January 1, 1898, the date when all cars must be equipped with automatic couplers, and authorized the State Board of Railroad Commissioners to grant further extensions up to the first day of January, 1900. After that date railroad companies must refuse to accept from connecting lines cars to be used within the limits of Iowa unless fully equipped as required by law.³⁰⁶

The accompanying table (Table II below) shows the extent of compliance with the law relating to automatic couplers, and suggests the effect of these appliances in saving life and limb.³⁰⁷ The process of equipping freight cars with automatic couplers began about 1889 and was practically completed by 1900. There are, then, three periods in Iowa railway history as regards the type of couplers used: (1) the link and pin era, before 1890; (2) the transition period from 1890 to 1900; and (3) the period of the all but universal use of automatic couplers beginning with 1901. During the twelve years of the first period ending with 1889, one hundred seventy-two men were killed and above fifteen hundred injured in coupling and uncoupling cars, a yearly average of fourteen deaths and one hundred twenty-six injuries. In the six years 1901-1906, when almost ninety-nine per cent of all cars were equipped with automatic couplers, the annual number of casualties in coupling and uncoupling was less than half as great, though there were nearly twice as many employees and more than three times as many cars as in the earlier period. Coupling accidents which caused more than one-third of all casualties to railroad men before 1890, have produced but one-nineteenth of the total since 1901. A comparison of the earlier and later years of the transition period (1890-1900) exhibits the same tendency, the number and proportion of coupling accidents

diminishing as the percentage of automatic couplers increases.

TABLE II—ACCIDENTS IN COUPLING AND UNCOUPLING CARS, 1878-

1906³⁰⁹

YEAR	NUMBER OF ALL CARS	NUMBER OF CARS EQUIPPED WITH AUTOMATIC COUPLERS	PER CENT OF CARS EQUIPPED WITH AUTOMATIC COUPLERS	NUMBER KILLED COUPLING AND UNCOUPLING CARS	NUMBER INJURED COUPLING AND UNCOUPLING CARS	PER CENT OF ALL ACCIDENTS TO RAILWAY EMPLOYEES DUE TO COUPLING & UNCOUPLING CARS
1878	29,057			17	70	43.5
1879	31,584			14	55	45.1
1880	54,451			17	87	56.2
1881	67,510			20	64	38.8
1882	85,206			16	182	34.5
1883	98,106			16	98	33.8
1884	103,337			8	109	28.2
1885	102,835			13	174	23.6
1886	106,178			10	126	34.3
1887	91,097			9	134	34.6
1888	113,975			19	240	45.8
1889	120,757	4,210	3.48	13	164	28.7
1890	127,464	9,194	7.23	14	203	33.3
1891	130,103	18,178	13.98	13	242	37.3
1892	149,731	34,315	22.92	14	196	31.4
1893	142,730	49,871	34.95	10	196	27.2
1894	127,171	46,558	36.66	7	91	23.61
1895	158,721	58,862	37.02	5	80	22.54
1896	182,529	70,718	38.74	6	97	23.02
1897	171,909	101,851	59.25	7	80	26.28
1898	176,035	142,638	81.04	4	75	22.89
1899	190,730	180,505	94.65	12	72	20.49
1900	200,814	188,656	93.95	8	59	12.92
1901	211,883	250,464	99.32	6	52	8.27
1902	237,289	236,276	99.4	4	49	5.78
1903	267,127	264,587	99.09	11	83	8.54
1904	284,748	280,559	98.54	10	75	6.49
1905	288,133	282,717	98.18	5	45	3.45
1906	297,925	294,344	98.47	5	57	3.76

Aggregate, 1878-1906				313	3253	20.
YEARLY AVERAGE						
1878-1889	83,674	351	.41	14.3	125.6	34.3
YEARLY AVERAGE						
1890-1900	159,812	81,940	51.27	9.1	126	26.6
YEARLY AVERAGE						
1901-1906	264,517	261,491	98.86	6.8	60	5.4

An incidental effect of the adoption of automatic couplers has been a marked reduction in the number of accidents from being caught in frogs. During the eleven years ending with 1888, forty-one men were killed and thirty-two injured in this manner; in the six years, 1901-1906, there were seven deaths and thirteen injuries from the same cause.³¹⁰ The annual number of accidents from being caught in frogs was 6.6 in the earlier period, and 3.3 in the later. The difference is principally due to the fact that men are no longer compelled as formerly to step between the rails in coupling and uncoupling cars. In part, perhaps it may be explained by the partial blocking of frogs upon some railways.

POWER BRAKES

In records of accidents to railway employees the item "falling from trains and engines in motion" occupies a place only second to that of "coupling and uncoupling cars". In fatality, indeed, "falling from trains" distances all rivals, having occasioned twenty-nine per cent of all deaths suffered by railway employees in Iowa since 1878. As shown by Table II there were upon the railroads of this State 554 deaths and 1,731 injuries from this single cause during the period 1878-1906. A very large number of these casualties were directly traceable to the hand-brake in the use of which brakemen were compelled to pass from one end to the other of a long freight train over the uneven, slippery decks of lurching cars in all sorts of weather and at all hours of the day and night. It would tax the resources of a trained acrobat to maintain his footing under such circumstances. But the brakeman was not required merely to keep on his legs: he must promptly

set or release the brakes, meantime keeping a sharp lookout for overhead bridges. Little wonder that, with the link and pin coupler and hand-brake, his occupation should be spoken of as equaling in peril that of a soldier in time of war.³¹¹

The hand-brake was not only a source of peril to brakemen; it was inadequate to the control of heavy freight trains. Derailments occurred through inability properly to reduce speed in passing switches. A long freight train sometimes parted on a heavy grade and the wild cars left the track or collided with a following train. These evils were early recognized, and the remedy sought in "power brakes" operated from the engine-cab. The use of air-brakes on passenger cars began in the seventies,³¹² and many experiments in their application to freight trains were made during the course of the following decade.³¹³ But, as in the case of automatic couplers, railways were slow to adopt the new brake even when its practicability had been clearly demonstrated.

As early as 1885, Commissioner Coffin had said that "there is really no more necessity for continuing the present practice of using hand-brakes on top of freight cars, than there is for putting men on the tops of passenger trains. The fact that trains of cars are run with almost perfect safety to trainmen, because of the use of air and other automatic brakes, and this other fact that with the use of the common hand-brake there is every year a fearful loss of life as well as of property, and a great amount of suffering—these facts, we repeat, are sufficient to warrant legislation that will require railway companies to adopt such appliances as will prevent this loss of life and property."³¹⁴

Without such legislation only three per cent of the cars in use as late as 1889 were equipped with train brakes.³¹⁵ The continuing waste of human life and the apparent indifference of railway corporations at last forced the legislature to intervene.

The Coffin Act of 1890³¹⁶ provided that after January 1, 1892,³¹⁷ every locomotive used in Iowa must be equipped with

a "driver brake" and that after January 1, 1893,³¹⁷ every train must contain a sufficient number of cars equipped with some kind of automatic or power brake to enable the locomotive engineer to control the train without requiring the use of the hand-brake.

The Iowa law of 1890, and still more the Federal law of 1893,³¹⁸ greatly accelerated the equipment of freight cars with train brakes, as may be seen from the accompanying table (Table III). But the number of casualties due to falling from trains has not correspondingly diminished. From 1878 to 1889, when almost no freight trains were equipped with air brakes, the annual deaths from this cause averaged 19.8, and the injuries, 34.7; from 1901 to 1906, when more than four-fifths of all cars were so equipped, the yearly averages were 17.6 and 117.8, respectively. We have, then, a slight falling off in the absolute number of deaths and a great increase in the absolute number of injuries per year. Relatively, the showing is somewhat more favorable. The number of railway employees in the State averaged 22,240 for the period 1878-1889, and 40,267 from 1901 to 1906. Thus the annual rate of fatality per thousand employees was .89 for the earlier period and only .44 for the later. On the other hand, the annual number of injuries per thousand was 2.9 for the years 1901-1906, as against 1.5 for the earlier period.³¹⁹

TABLE III—ACCIDENTS DUE TO FALLING FROM TRAINS, 1878-1906

YEAR	PER CENT OF ALL CARS EQUIPPED WITH POWER BRAKE	NUMBER KILLED FALLING FROM TRAINS	NUMBER INJURED FALLING FROM TRAINS	PER CENT OF ALL ACCIDENTS TO RAIL- WAY EMPLOYEES DUE TO FALLING FROM TRAINS
1878		14	11	14.6
1879		10	12	14
1880		11	8	10
1881		20	10	13.4
1882	1.8	31	57	14.8

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1883	1.8	33	42	22.8
1884	1.8	10	57	13.7
1885	2	16	34	6.3
1886	2	25	38	16
1887	2.8	23	39	15
1888	1.7	32	52	14.8
1889	3	13	56	12.6
1890	8	17	53	10.7
1891	11	23	82	15
1892	19.4	28	63	13.6
1893	27.4	22	68	11.8
1894	29.7	17	32	11.7
1895	33.3	20	37	15.1
1896	47	19	35	12
1897	52.7	14	65	23.8
1898	59.8	18	50	19.7
1899	67	12	64	18.5
1900	67	20	59	15.2
1901	75	21	100	17.1
1902	77.5	6	98	11.3
1903	81.3	27	87	10.3
1904	83.2	20	147	11
1905	85.4	11	102	7.8
1906	89.9	21	173	11.6
Aggregate 1878-1906		554	1731	12.8
Yearly Ave. 1878-1889	1.7	19.8	34.7	13.3
Yearly Ave. 1890-1900	41.5	19	55.3	14.5
Yearly Ave. 1901-1906	82.4	17.6	117.8	9.7

OVERHEAD OBSTRUCTIONS

During the twenty-nine years ending June 30, 1906, there were reported two hundred and four accidents to trainmen in the State of Iowa from "overhead obstructions"—that is, bridges, viaducts, and wires too low to be cleared by a man standing on the top of a car. The height of overhead bridges and viaducts is regulated by statute in several States;³²⁰ but in Iowa it is left to the discretion of railway officials.

“Guards” or “warnings”, are, however, usually placed at some distance on each side of dangerously low bridges; and these afford a certain protection to brakemen.

The great extension of telephone and electric railway lines added a new peril to the brakeman's already hazardous calling—namely, the overhead wire. Rural telephone companies, especially, like to string their wires as low as possible, even across a railroad right of way, in order to save the extra cost of long poles.³²¹ The extent of this practice led, in 1907, to the passage of an act giving the State Board of Railroad Commissioners general supervision over all wires crossing railroad tracks within the State. The Commissioners are required to prescribe rules and regulations for the stringing of such wires, to examine those already strung, and to fix a minimum height, not less than twenty-two feet above the top of the rails, at which wires may lawfully be placed above railway tracks.³²²

In July following the enactment of this law the Railroad Commissioners adopted very full regulations in accordance with its terms. A member of the Board is authority for the statement that complaints on this score have now practically ceased.

HOURS OF SERVICE IN THE OPERATION OF TRAINS

Many a railway disaster is directly attributable to the unreasonable hours often exacted from trainmen. Some ideas of the extent to which this evil recently prevailed may be gathered from the subjoined table of hours of service by railway trainmen in Iowa, in 1905.

TABLE IV—HOURS OF SERVICE OF RAILWAY TRAINMEN IN IOWA,
1905³²³

	ENGINEERS	FIREMEN	CONDUCTOR	BRAKEMEN
Number reporting.....	42	23	22	22
Roads represented.....	9	6	5	6

Average number of hours				
per trip.....	10.56	10.73	11.33	11.51
Greatest number of hours				
on continuous duty....	57	36	40	36

According to this table the average run for all classes of trainmen exceeded ten hours, while a train crew was occasionally kept continually on duty for lengths of time ranging from twenty to fifty-seven hours. Overtime work, indeed, was chronic on certain roads, particularly in the local freight service. It was not merely that unavoidable delays sometimes occurred, but it was that the capacity of locomotives, cars, and roadbed was habitually overtaxed and that too few men were employed in proportion to the traffic handled. Not only were train crews kept too long upon the road at one time, but they were liable to be called out again after a few hours' rest from a long and exhausting trip.³²⁴ It needs no argument to show that no locomotive engineer or train conductor can properly perform his exacting and responsible duties with safety either to his co-employees or to the traveling public without adequate intervals for rest and sleep.

The evil of excessive hours for railway trainmen is as old as the history of railroading. The attempt to correct it by legislation is much more recent. The Iowa law dates from the year 1907. It forbids any railway company, its officers, or agents to require or permit any employee engaged in or connected with the operation of trains, to remain on duty more than sixteen consecutive hours, or to perform any further service after sixteen hours' consecutive duty without having had at least ten hours for rest, or to be on duty more than sixteen hours in any twenty-four. But these provisions do not apply to employees of sleeping-car companies or to trainmen engaged in the protection of life and property in cases of accident; nor do they prevent train crews from taking a passenger train or a freight train loaded *exclusively*³²⁵ with live stock or perishable freight to the nearest division terminus. Nor, finally do the prohibitions apply to the time necessary for

the trainmen to reach a resting place when delayed by some unavoidable cause. It is made the duty of the State Board of Railroad Commissioners to prosecute violators of the law, and to investigate all complaints of violation withholding, when so requested, the name of the complainant. In making investigations the Board has power to administer oaths, interrogate witnesses, take testimony, and require the production of books and papers.³²⁶

The exception of sleeping-car employees and the clause permitting a train crew to take passenger trains or freight trains loaded exclusively with live stock or perishable freight to the division terminus were inserted by the House Committee on Labor.³²⁷ The second of these provisions was intended to prevent the stranding of passengers, live stock, or perishable freight at out-of-the-way places. An attempt made on the floor of the House to strike the word "exclusively" from the committee report was defeated; such a change would have opened the way for many of the old abuses.

INVESTIGATION OF RAILWAY ACCIDENTS

The law establishing the State Board of Railroad Commissioners (1878) required the Board, if they should deem it necessary, to investigate any railway accident resulting in personal injury or loss of life and to promptly report to the Governor the extent of the personal injury or loss of life, and whether the same was due to the mismanagement or neglect of the corporation upon whose line the accident occurred. But nothing in the Commissioners' report might be used as evidence or referred to in any case in any court.³²⁸ This provision was omitted in the *Code of 1897*, but was re-enacted in 1907.³²⁷ The Board has made use of its power chiefly in the case of collisions and derailments. The investigation of such "accidents" by a public authority and the resulting fixation of responsibility strongly tends to lessen the frequency of their occurrence. Nor has the Board hesitated to attach blame for inadequate equipment or negligent management where such blame was due.

REPORT OF ACCIDENTS TO RAILWAY EMPLOYEES

Ever since its establishment the Iowa Board has compiled each year a list of accidents to persons upon the railways of the State. Authority to do so is found in a section of the law of 1878 establishing the Board, which requires an annual report to the Governor, "containing such facts, statements and explanations as will disclose the working of the system of railroad transportation in this state" (Sec. IV). Another section of the same law makes it the duty of the president or managing officer of each railroad corporation doing business in Iowa, annually to "make to the said commissioners such returns, in the form which they may prescribe, as will afford the information required for their said official report" (Sec. V).

The Commissioners' annual reports show in tabular form the number of casualties to passengers, employees, and "others", respectively; also, *without distinguishing these classes*, the number of deaths and injuries due to coupling cars, falling from trains, getting on or off trains in motion, derailments, collisions, and other leading causes. For only four years (1889-1892) are the casualties to employees compiled. For the earlier years of the Board's existence this information was given in the detailed returns, but this practice was discontinued with the report of 1892, since which date analysis of the Commissioners' tables of accidents is impossible. A really analytical table should be easy to construct from the returns in the hands of the Board; and such a table would be immensely more valuable for any purpose of study or comparison than the present unscientific compilation.

TABLE V—ACCIDENTS TO RAILWAY EMPLOYEES IN IOWA, 1878-1906 ³³⁰

YEAR	NUMBER EMPLOYEES	NUMBER EMPLOYEES KILLED	NUMBER EMPLOYEES INJURED	NUMBER KILLED FOR EACH THOUSAND EMPLOYEES	NUMBER INJURED FOR EACH THOUS- AND EMPLOYEES
1878	13,518	40 ³³¹	137	2.91	11.48
1879	15,341	42	111 ³³²	2.74	7.25
1880	18,985	45 ³³³	140	2.37	7.37
1881	21,974	68 ³³⁴	148 ³³⁴	2.09	6.73
1882	17,273	89	502	5.14	29.17
1883	27,112	82	255	3.04	9.44
1884	26,731	72	343	2.7	12.85
1885	25,666	72	720	2.80	28.02
1886	25,761	61	336	2.36	13.02
1887	29,088	59	354	2.04	12.21
1888	20,794	101	564	4.85	27.11
1889	24,642	61 ³³⁵	485 ³³⁵	2.48	19.62
1890	24,351	73	579	3.04	24.12
1891	27,589	82	601	2.97	21.77
1892	30,192	80	587 ³³⁶	2.66	19.56
1893	31,127	81	682	2.61	22
1894	29,308	48	367	1.64	12.6
1895	24,107	47	330	1.96	13.75
1896	28,165	36	411	1.29	14.68
1897	26,690	40	291	1.50	10.82
1898	30,009	44	301	1.46	10.03
1899	32,385	62	348	1.91	10.74
1900	37,696	70	449	1.86	12.17
1901	37,836	65	636	1.72	16.82
1902	40,636	64	853	1.57	21.09
1903	42,484	100	1001	2.35	23.52
1904	38,508	90	1419	2.34	36.85
1905	39,586	74	1376	1.87	34.75
1906	42,554	80	1592	1.88	37.45
Total, 1878-1906		1928	15918		

YEARLY AVERAGE					
1878-1906	28,624	66.5	549	2.33	19.2
YEARLY AVERAGE					
1878-1889	22,240	66	341	3	15.5
YEARLY AVERAGE					
1890-1900	29,238	60	449	2	15.5
YEARLY AVERAGE					
1901-1906	40,267	79	1149	1.97	28.6

Table V exhibits the number of accidents to railway employees in Iowa, and also the number of deaths and injuries per thousand employees for each year from 1878 to 1906 inclusive. The summaries show the annual average for the same periods as those of tables II and III. The division into three periods is determined, as will be remembered, by the fact that the safety appliance law was passed in 1890 and became fully operative only in 1900. In view of this law it is noteworthy that while the number of deaths yearly from coupling cars is much less and that from falling from trains likewise somewhat less for the period 1901-1906 than for either of the earlier periods, yet the average number of deaths from all causes is actually greatest for the later years. The annual fatality per thousand employees from all causes is two-thirds as great for the years 1901-1906 as for the years 1878-1889; that from falling from trains is but one-half and from coupling cars but one-fourth as large. A comparison of the columns of injuries in the three tables gives somewhat analogous results. It would appear from these facts that the safety appliance law has been successful in diminishing the number of accidents from specific causes, but that it has not had the effect which had been expected upon the whole number of railway casualties.

If the Railroad Commissioners' reports are to be trusted the number of non-fatal injuries to railway employees is increasing both absolutely and relatively. A part of this increase may be due to the greater completeness of the returns in recent years. Whether all of it can be so explained is uncertain.

The protection of railway employees is a function naturally devolving upon the Federal government, since railways are almost without exception engaged in interstate commerce. Accordingly, since the national railway safety appliance act became operative, the State laws relating to the same subject have been important chiefly as supplementing the Federal statutes. Considered in this light the Iowa law would seem to require amendment so as to cover grab-irons, sill steps, frog-blocks, and other appliances for the protection of trainmen.

VESTIBULES ON STREET CARS

In the early days of the trolley car the operator was compelled to stand on an open platform exposed to every extreme of weather and thereby not only endangered his own health, but incapacitated himself at times for the efficient performance of his duty. Laws were accordingly passed in many States requiring enclosed vestibules on street cars during the winter months, and were upheld both as necessary for the protection of street railway employees and as conducing to the public safety.³³⁷

The first Iowa law upon this subject was enacted in 1897, and required all street cars, except trailers, to be provided "with vestibules inclosing the front platform on at least *three*³³⁸ sides", from November first of each year to April first following.³³⁹ The obvious intent of the statute was to secure the inclosure of the vestibule upon the three outer or exposed sides. But certain street railway companies, with characteristic ingenuity, cut off the vestibule from the body of the car, leaving one side of the former open.³⁴⁰ Such evasion of the law was made impossible by an act passed in 1907, which changed "three" to "all" sides.³⁴¹

The vestibule law, as amended, secures a fair protection against cold. But there is no requirement that the rear platform of street cars shall be enclosed, or that vestibules shall be heated during the winter months, or that any shelter whatever shall be provided for the operator from April to Novem-

ber. Nor are there wanting street railway companies who will not go beyond the strict letter of the law in providing for the health and comfort of their employees.

Even more objectionable than the open platform is the side running board extensively used on summer cars. Cars thus equipped have no center aisle; consequently the conductor, in collecting fares, has to pass from one end to the other of a moving car upon a narrow foot board, at considerable risk of life and limb.

A bill aimed at the evils just recited was introduced in the last General Assembly (1907) but was adversely reported in both Houses and never came to a vote.³⁴² Lack of organization on the part of the street railway employees in certain cities was a large factor in defeating the bill, which had also the active opposition of the street railways themselves.³⁴³ The Iowa Federation of Labor at its last annual convention (1908) again adopted resolutions demanding such legislation.³⁴⁴

MECHANICS' LIENS ON RAILWAYS

As early as 1851 the benefits of the mechanics' lien laws were extended "to persons furnishing labor or materials for the construction of any bridge, railroad, or other work of internal improvement in the same manner as though such work were a building".³⁴⁵ This provision, with many changes of form, has ever since been retained upon our statute books.³⁴⁶

Under the law of 1851 the lien upon works of internal improvement attached to "the whole work and its appurtenances together with all the real or personal property connected therewith".³⁴⁷ This very broad scope was limited in 1860 to "the building, erection, or improvement, and the land on which the same is situated".³⁴⁸ In 1872 the lien was binding "upon the erection, excavation, embankment, bridge, road-bed, or right-of-way, and upon all land upon which the same may be situated".³⁴⁹ Railway rolling-stock had been held not to be included within the property subject to mechanics' lien under the law of 1860;³⁵⁰ presumably it fell without the terms

of that of 1872 as well. But in 1876 rolling-stock was expressly made subject to the lien upon railways;³⁵¹ and "other equipment" was added in 1897.³⁵² The lien attaches to the entire road for work done or material furnished on any part of it.³⁵³

VI

FACTORY LAWS

Prior to the year 1900 there does not appear to have been any careful investigation of the sanitary conditions and the safeguards for life and limb in Iowa factories. Between June of that year and the following February, Commissioner of Labor Wennerstrum inspected three hundred and twenty-eight establishments employing five or more persons each.³⁵⁴ Of this number ninety-eight contained unguarded machinery endangering the lives of operatives; seventeen had open elevator wells; one hundred and thirty-five were without proper water-closet accommodations; one hundred and thirteen were poorly or indifferently ventilated; and a few were otherwise unsanitary. Ninety establishments—27.4 per cent of those investigated—were in a satisfactory condition, ten being models of their kind.³⁵⁵ The places inspected were believed to be representative. If so, nearly three-fourths—certainly more than two-thirds—of the 4,828 factories in Iowa³⁵⁶ fell below a reasonable standard of safety and comfort. Conditions were worst in the smaller plants and in those which had outgrown their original accommodations.³⁵⁷

Conditions such as those found in Iowa in 1900 often occur in an era of rapid industrial expansion. Provision for the welfare of employees may pay in the long run, but it requires considerable outlay and does not at once show in increased profits. Hence, employers are slow to make such provision unless forced to do so by legal authority.

To correct some of the evils revealed in Commissioner Wennerstrum's report, Senator Maytag introduced a bill in the Twenty-ninth General Assembly (1902) "to provide for the safety and comfort of laborers and other persons assem-

bled in factories and buildings''.³⁵⁸ This bill encountered little opposition and passed both Houses without serious amendment.³⁵⁹ Its leading features are discussed below.

PROTECTION OF LIFE AND LIMB

GUARDS ON DANGEROUS MACHINERY

The act of 1902 makes it the "duty of the owner or other person having charge of any manufacturing or other establishment where machinery is used, to furnish . . . belt shifters or other safe mechanical contrivances for the purpose of throwing belts on and off pulleys, and, whenever possible, machinery therein shall be provided with loose pulleys; all saws, planers, cogs, gearing, belting, shafting, set screws and machinery of every description therein shall be properly guarded''.³⁶⁰

Between July, 1902, when the law went into operation, and October, 1906, the Commissioner of Labor issued 1,593 orders for the better safeguarding of machinery. Of these, 461 were for removing or covering set screws, and 120 were for safety devices on elevators.³⁶¹

Before the passage of the factory law the safeguarding of freight and passenger elevators in factories and stores was very much neglected. Many of the lifts in use were of antiquated construction and were wholly innocent of automatic gates, safety clutches, and self-closing hatches. The elevator wells were often uncovered, or even unenclosed, and the doors leading to them habitually left open.³⁶² Elevators are not expressly within the statute, but are rightly held to be within the provision respecting "machinery of every description". The Commissioner's recommendations concerning them have generally been complied with, though there is still plenty of room for improvement.

Safeguards on all dangerous machinery are frequently removed by operatives, for whose protection they were provided but who find them inconvenient in their work. Sometimes guards are taken off while the machinery is being

cleaned, and are not replaced when work is resumed. The Commissioner of Labor has twice asked for legislation to stop this practice,³⁶³ and a bill looking to that end was introduced in the Thirty-second General Assembly, but after repeated references and amendments was allowed to die in the Senate Sifting Committee.³⁶⁴

Ever since 1866 there has been a provision upon the statute books of Iowa for the proper enclosing of tumbling rods upon horse-power threshing machines.³⁶⁵ Such a law long ago outlived its usefulness, whereas needed legislation respecting steam threshers, corn-shredders, and saw mills has never been provided.

Owing to imperfect reports it is impossible to state what has been the effect of compulsory safeguards for dangerous machinery in reducing the number of injuries to operatives. But a considerable reduction has undoubtedly been effected, and larger results will follow the complete enforcement of the law.³⁶⁶

BOILER INSPECTION

An act passed in 1874 and still in force makes it "the duty of any person owning or operating steam boilers . . . to provide such boilers with steam-gauge, safety-valve, and water-gauge and keep the same in good order" and prescribes a penalty of not less than fifty nor more than five hundred dollars for each violation.³⁶⁷ Another act, dating from 1882, empowers cities and towns to provide for the inspection of steam boilers.³⁶⁸

Neither of these laws seems ever to have been enforced. Cities have made no effective use of their power of inspection and boiler owners have been allowed to do as they please in the matter of safeguards. Large manufacturers generally insure their boilers, in which case the underwriter provides efficient inspection. But there are hundreds of uninsured steam boilers in the State, the owners of which often neglect the most ordinary precautions for safety. Not only rusted flues and leaky crowns, but incompetent firemen and engineers

contribute to the annual list of explosions. Worst of all are the traction engines used for small saw mills and threshing machines.³⁶⁹

A defective or improperly managed steam boiler is so dangerous to life that the need for compulsory inspection of boilers and for State certification of stationary engineers and firemen is obvious. It should be possible to frame a law in the interest of public safety that would not work substantial injustice to boiler owners. Hitherto, however, all attempts at legislation have failed largely because the various interests affected have been unable to reconcile their differences. Four boiler inspection bills were introduced at the last session of the General Assembly (1907).³⁷⁰ None of them ever got beyond committee.³⁷¹ The boiler maker's brotherhood had asked for a separate department, supported by the State Treasury—a demand not likely to be listened to by a "reforming" legislature. On the other hand, a bill making the boiler inspectors subordinate to the State Bureau of Labor Statistics was not warmly supported by the brotherhood most interested. The manufacturers' association objected to State inspection of insured boilers, while the thresher-men and saw-mill owners were opposed to any legislation.³⁷²

FIRE ESCAPES

Prior to 1882 there was no legal requirement of means of egress from any building in case of fire. In that year incorporated cities and towns were empowered "to require and regulate the construction of fire escapes".³⁷³ Six years later the same authority was given to the boards of public works in cities having a population of thirty thousand or more.³⁷⁴

These powers, at least as respects factories, the local authorities did not see fit to exercise. Of two hundred and ninety factories, two or more stories in height, visited by the Commissioner of Labor in 1900, but twenty were equipped with any sort of fire escape, and some of those provided were "very primitive". In a large number of factories the doors opened in, so as to prevent speedy exit in case of a fire; and

in some there were locked gates in the stairways rendering escape almost impossible. Workmen jumping from the third or fourth stories would in many cases have encountered a network of wires in the street or alley below.³⁷⁵

The first serious effort of the legislature to deal with the question of fire escapes was made in 1902. The act of that year requires the owner, proprietor, or lessee of every manufactory, warehouse, store, or office building, three or more stories in height, if not more than twenty persons are employed therein, to provide the same with at least one ladder of steel or wrought-iron construction attached to the outer wall of the building and provided with platforms of similar material at each story, for each five thousand square feet or fractional part thereof covered by the building. If more than twenty persons are employed, there must be two fire escape ladders, or one fire escape stairway; if the number of employees exceeds forty, there must be two such stairways, or such number as the chief of the fire department, or the mayor of the city shall from time to time determine.³⁷⁶

The enforcement of the act of 1902 was again entrusted to the local authorities, and they for the most part continued their old policy of inaction. The Commissioner of Labor was authorized by a separate act of the same General Assembly to notify the owner or persons in charge of any factory or building of any neglect to comply with the law in respect to fire escapes,³⁷⁷ but he was powerless to enforce compliance.³⁷⁸ In some instances the Commissioner secured the co-operation of the local fire chief in giving effect to the law; in other cases such co-operation was flatly refused.³⁷⁹

Some of the defects of the fire escape law of 1902 were remedied at the next session of the legislature (1904). By the act then passed the Commissioner of Labor was given equal authority with the fire chief, mayor, or chairman of the County Board of Supervisors to adopt uniform specifications for fire escapes and to require buildings three or more stories in height to be equipped in accordance with such specifica-

tions. Failure to comply with such request within sixty days after receipt of written notice is punishable by fine of not less than fifty, nor more than one hundred dollars, and there is a further penalty of twenty-five dollars for each additional week of delay. Fire escapes are subject to the inspection and approval or rejection in writing of the Commissioner as well as of the other persons above named.³⁸⁰

The power thus granted to the Commissioner of Labor has been effectively used where local authorities were negligent, so that compliance with the law is now quite general. It is evident, however, that a ladder fire escape, such as is now permitted for all establishments not having more than forty employees, can never be satisfactory where women and girls are employed. Many factories still have doors opening in, and there is no law to prevent this. No fire escape whatever is required for two story buildings, though few men and no woman can jump from a second story window without grave risk. Comparison of Iowa's fire escape law with such a statute as that of New York shows the great need for improvement in this State.

REPORT OF ACCIDENTS

The act establishing the Bureau of Labor Statistics made it the duty of the Commissioner "to compile and publish . . . the number and character of accidents".³⁸¹ The law is still the same.³⁸² But, except for partial reports of railway accidents, the provision remained practically inoperative for eighteen years.

The first attempt to gather statistics of accidents in factories, shops, and outside work in Iowa, was made by the present Commissioner of Labor, Mr. E. D. Brigham. The results of his efforts are exhibited in the following table:

ACCIDENTS REPORTED TO THE IOWA COMMISSIONER OF LABOR

PERIOD COVERED	NUMBER OF ACCIDENTS				MONTHLY AVERAGE
	MONTHS	FATAL	NON-FATAL	TOTAL	
Dec. 1, 1900, to Oct. 1, 1903,	33	41	750	791	23.94
Oct. 1, 1903, to Jan. 1, 1905,	15	16	191	207	13.75
Jan. 1, 1905, to Jan. 1, 1906,	12	11	1662	1673	139.41

The extreme fluctuations in the monthly average of accidents shown by this table sufficiently prove the inadequacy of the reports. The very great increase for the year 1905 indicates only that far more complete returns were secured for that year. It is clear, however, that trustworthy results can never be given by the present method of annual or biennial reports on statistical blanks. Accordingly, the Commissioner of the State Bureau of Labor Statistics has repeatedly asked that employers be required to report all fatal or disabling accidents at their respective places of employment, immediately after their occurrence.³⁸² Bills for such a law were introduced in both the Thirty-first and Thirty-second General Assemblies, but failed to pass.³⁸⁴

A trustworthy record of industrial casualties would be extremely valuable as a guide for further legislation to lessen the hazard of employment. Moreover, the requirement of a prompt report of accidents, with the possibility of an official investigation to follow, would of itself make employers much more careful in safeguarding human life.

PROTECTION OF HEALTH IN FACTORIES AND STORES

SEATS FOR FEMALE EMPLOYEES

To be compelled to stand continuously for ten or twelve hours day after day is a menace to the health of any young woman or girl. Accordingly, most States in the Union require employers to furnish seats for their female employees.³⁸⁵

The Iowa law was enacted in 1892. Its principal section provides: "That it shall be the duty of all employers of females in any mercantile or manufacturing business or occupation to provide and maintain suitable seats, when practicable, for the use of such female employees, at or beside the counter or work-bench where employed, and to permit the use of such seats by such employees to such an extent as the work engaged in may reasonably admit of."³⁸⁶

A fine not to exceed ten dollars was imposed for each offense, and the county attorney was required to prosecute all violations upon the filing of information by any citizen. Compliance with this law was largely voluntary for the first ten years of its existence. Citizens rarely filed informations, and county attorneys were not inclined to begin prosecutions on their own initiative. Many employers did provide seats as required, and a few were forced to do so by humane societies or other benevolent organizations. Since 1902 the Commissioner of Labor has had authority to enforce the law.³⁸⁷ Inspection of factories and stores within the past five years (1902 to 1907) has greatly diminished the number of violations. Even now, however, compliance with the law is not all that could be desired. In a good many, if not most, department stores the "suitable seats" provided are comfortless bracket stools attached to the counter. In some stores even these are wanting; and in still others, girls are not allowed to sit down at all during working hours. A large number of factory girls sit at their work, but where the nature of their employment does not admit of this they often have no resting places but packing boxes and window ledges.³⁸⁸

Vigorous action on the part of the Labor Commissioner and his deputies has brought about a marked improvement in existing conditions, as compared with those of a few years ago. Nevertheless the subject of water-closet accommodations continues to be a troublesome one. An earth closet or privy satisfies the requirements of the law, and more than one-third of the establishments inspected in the biennial period (1903-

1905) had no other. It is clear that such closets can never be sanitary when used by any considerable number of persons. Privies, moreover, are usually detached out-buildings—an especially undesirable feature where these places must be used by women.

DISPOSAL OF DUST

The Factory Act of 1902 requires that emery wheels or emery belts of every description and tumbling barrels used for polishing castings shall be provided with blowers and pipes to carry away all particles of dust directly to the outside of the building or to some receptacle. From this requirement are excepted grinding machines upon which water is used at the point of grinding contact and small emery wheels used temporarily for tool grinding. The Commissioner of Labor is authorized to further exempt shops employing not more than one man at such work.³⁹¹

The work of grinding, buffing, and polishing minerals gives rise to a very injurious dust which can be almost wholly obviated by proper ventilating hoods. Such hoods are hardly less necessary for many kinds of wood working machines, though these are not included within the terms of the statute. Some manufacturers voluntarily provide blowers and pipes for all dust-producing work, but many others will never make such provision unless forced to do so.

HEAT, LIGHT, AND VENTILATION

The Labor Commissioner reported in 1901 that the means for heating in the wood working establishments and iron foundries were usually very inadequate. In dozens of shops where iron work was being carried on there was no provision whatever for heating, the men depending wholly upon the heat from furnaces and forges. In some large box factories and planing mills, where there was not even a stove, the workmen suffered severely from the cold.³⁹² These conditions still largely prevail, no effort having ever been made to correct them by law.

The subject of proper light and ventilation for factories has never received in Iowa the attention it deserves. Some of the newest establishments have high, airy work rooms, with white-washed walls, large windows, and excellent artificial ventilation. But most of the older factories have low ceilings, small windows, and dark, sometimes damp, interiors. Natural ventilation through cracks or other accidental openings is commonly the only means of supplying fresh air to operatives. Conditions are probably worst in iron works. In these establishments furnaces, forges, and anvils produce a combination of smoke and fumes, injurious alike to eyes and lungs. The cupolas and hoods necessary to carry off the fumes are expensive and, not being required by law, are seldom furnished by the manufacturer. The writer has visited more than one large foundry where the smoke was so thick that it was difficult to see across the work room on a winter day.

BAKESHOPS

There were in Iowa in 1905 three hundred and sixty-five bakeries, with more than one thousand wage earners and an annual product worth more than three million six hundred thousand dollars.³⁹³ Most of these establishments are in good sanitary condition, many of the larger ones, especially, being models of their kind. But there are a few extremely bad exceptions. Underground bakeshops, dark and unwholesome, are found in certain cities. Sleeping apartments in some of the small shops are not separate from the bread room. Flour is not always kept in vermin proof receptacles. Water closets with no outside ventilation are sometimes built into the bake rooms, and at least one case was investigated by the factory inspector where the drain was out of order and sewage running over the floor within a few feet of the mixing board.³⁹⁴

It is to correct just such conditions as these that bakeshop laws have been enacted in many of the older Commonwealths. An excellent bill, modeled on the legislation of other States, was introduced at the session of the General Assembly in 1907, but was killed by the House Committee on Public

Health.³⁹⁵ The question is one which is certain to come up again at future meetings of the legislature. State regulations and inspection should be welcomed by the master bakers, most of whom are already endeavoring to maintain wholesome conditions and who should not be subjected to the unfair competition of those who do not.

The baking industry is growing very rapidly in Iowa, as shown in the following table:³⁹⁶

ITEM	PER CENT INCREASE				
			1895	1900	
	1895	1900	1905	1905	1905
Number of establishments		194	365		88.1
Capital invested.....	501,570	1,301,902	1,581,911	215.2	21.5
Number of Wage-earners	729	846	1,061	45.5	25.4
Value of Product.....	1,480,848	2,673,788	3,610,967	143.8	34.6

Notwithstanding the great development of the past ten years the bakers even now serve but a small proportion of the families living in cities and towns. Nothing would more conduce to the future growth of the business of bread making than public confidence in the wholesomeness of bakery products.

FACTORY INSPECTION AND ENFORCEMENT OF FACTORY LAWS

FACTORY INSPECTION

An act passed in 1896 empowered the Commissioner of the Bureau of Labor Statistics, "upon the complaint of two or more persons, or upon his failure to otherwise obtain information to enter any factory or mill, workshop, mine, store, business house, public or private work where five or more wage earners are employed."³⁹⁷ Little use was made of this power until the accession in 1900 of Commissioner Wennerstrum, who secured an opinion from the Attorney General to the effect that he was authorized to make personal inspection whenever he might deem the information obtained by correspondence unsatisfactory.³⁹⁸ In accordance with this opinion the work of factory inspection was begun in 1900. Its progress to date is exhibited in the accompanying

table, showing the number of establishments inspected by biennial periods.³⁹⁹

DATE OF INSPECTION	NUMBER INSPECTED
1900	328
1901-1902	318
1903-1904	869
1905	1,029
1906-1907	1,080

Inasmuch as there are in Iowa about four thousand eight hundred factories employing five or more persons, it is evident that the work of inspection is still very incompletely performed. An increasing proportion of the Commissioner's time is necessarily taken up with office duties, and before 1904 he had but a single deputy.⁴⁰⁰ In the last mentioned year he was allowed, besides his deputy, a factory inspector and a clerk.⁴⁰¹ Two men now devote their entire time to field work. With these additions the Bureau's force is still manifestly too small. Two men can not adequately cover so large a territory as Iowa.

PROVISIONS FOR ENFORCEMENT

Section four of the factory act of 1902 provides that "It shall be the duty of the Commissioner of the Bureau of Labor of the State, and the mayor, and chief of police of every city or town, to enforce the provisions of the foregoing sections. Any person, whether acting for himself or for another or for a co-partnership, joint stock company or corporation, having charge or management of any manufacturing establishment, workshop or hotel, who shall fail to comply with the provisions of the said sections within ninety days after being notified, mine, store, business house, public or private work . . . shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding thirty days."⁴⁰²

Another act passed the same year provides that "If the commissioner of labor shall learn of any violation of, or neglect to comply with the law in respect to fire escapes, or the

safety of employes, or for the preservation of health, he shall give written notice to the owner or person in charge of such factory or building, of such offense or neglect, and if the same is not remedied within sixty days after service of such notice, such officer shall give the county attorney of the county in which such factory or building is situated, written notice of the facts, whereupon that officer shall immediately institute the proper proceedings against the person guilty of such offense or neglect."⁴⁰³

THE LABOR COMMISSIONER'S RECOMMENDATIONS

The accompanying table gives a classified summary of 2,604 recommendations to employers issued by the State Bureau of Labor in pursuance of the foregoing acts within the period 1901-1905:⁴⁰⁴

CLASS OF RECOMMENDATION	1901-1902		1903-1904		1905		AGGREGATE	
	MADE	COMPLIED WITH	MADE	COMPLIED WITH	MADE	COMPLIED WITH	MADE	COMPLIED WITH
Doors, change to swing outward..			3	3			3	3
Dust collectors, provide.....	41	20	68	68	19	19	128	107
Elevators, provide safeguards for	21	13	61	61	38	38	120	112
Fire escapes, erect.....	200	45	6	6	9	9	215	60
Fire protection, repair roof....	1	1					1	1
Floors, repair and clean.....	3	2	7	7	7	7	17	16
Guards, place on dangerous machinery	55	33	569	564	341	341	965	938
Heat and ventilation, provide...	1	1					1	1
Insulating mats for switchboards			5	5	5	5	10	10
Locks, remove to permit egress..	1	1					1	1
Loose pulleys and belt shifters, provide			25	24	12	12	37	36
Machinery, stop operation of, by children	7	1	9	9	3	3	11	13
Machinery, stop for cleaning.....	1	1					1	1
Set screws, protect or remove...			329	329	132	132	461	461
Sewers, provide connections for	1	1	1	1	6	6	8	8
Stairways, provide additional...			2	2	1	1	3	3
Stairways, equip with hand rails.	5	1	22	22	35	35	62	58
Unsanitary appliances, abolish..			3	3	1	1	4	4
Water closets, provide additional	1	1	27	26	26	26	54	53
Water closets, provide separate for females.....	120	49	95	93	40	40	255	182
Water closets, clean, repair, ventilate, screen.....	45	23	32	32	28	28	105	83

Place red light in hall leading to fire escape								30	30	30	30
Discharge children under 14....								39	39	39	39
Post list of children under 16..	503	192	1264	1255	837	837	2604	2284			

The table shows how the work of inspection has increased in scope and efficiency year by year. The effect of the act of 1904, enlarging the support of the Bureau, is shown both in the greater number of recommendations made and in the far higher percentage of compliance secured since that date. Prosecution is very rarely resorted to. Employers generally manifest a willingness to comply with the law upon the first notification, and even where they do not a second visit by the inspector seldom fails to bring about the desired result. Informations are filed only in the most obstinate cases, and even then the proceedings are dropped or the fines remitted upon compliance with the law.⁴⁰⁵

Notwithstanding the excellent work already done by the Bureau of Labor Statistics in enforcing the factory laws there are still many violations, particularly in the smaller establishments. Complete enforcement of these laws can only be brought about by frequent and thorough inspection of all the establishments to which they apply. And this frequent and comprehensive inspection is precisely what the Bureau with the limited force at its disposal can not give.

CONCLUSION

Factory legislation in Iowa is very recent, most of the existing laws having been enacted within six years (1902 to 1908). The progress made during that period is very gratifying. Employers are now required to equip their buildings, if over two stories in height, with fire escapes, to safeguard all dangerous machinery, to provide loose pulleys or mechanical belt-shifters, to equip grinding and polishing machines with dust collectors, to provide suitable water closets separate for the two sexes, to furnish seats for female employees. All manufacturing, stores, and public or private works where five or more persons are employed are subject to State inspection, and the inspector has ample authority to enforce the laws.

With all this progress Iowa's factory legislation is still very inadequate as compared with that of the more advanced States. There is no law requiring that steam boilers shall be inspected, or that competent engineers and firemen shall be employed, or that doors shall open outward, or that elevators shall be equipped with automatic gates, and safety catches, or that dust collectors shall be provided in factories. There is no provision for the inspection or proper sanitation of bake shops; no requirement that accidents shall be promptly reported; no limitations upon the hours of labor for women; no regulations of the heating, lighting, and ventilation of factories; and no prohibition of overcrowding. These and other defects in the laws must be remedied and ampler provisions for inspection must be made before the health, safety, and comfort of indoor employees can be effectually secured in the State of Iowa.

VII

CHILD LABOR LEGISLATION⁴⁰⁶

ITS NEED AND JUSTIFICATION

The right and duty of society to insist upon the proper rearing of all children is now generally recognized. Apart from humanitarian sentiment the state has a paramount interest in the development of its future citizenship, and this is held to justify the maintenance of costly institutions to supplement the voluntary efforts of parents. But unfortunately not all parents are awake to their parental duties or able to discharge their parental obligations. The small addition to the family income which can be made by a young child is too often allowed to outweigh that child's opportunity to attain a normal development. Wherever the law does not interfere, children of tender age are found working for wages.

The wrong done to the child is twofold: it is prevented from attending school; and it is directly injured by work unsuited to its age. Premature employment—particularly in factories, mines, and stores—stunts the bodily growth, dwarfs the mind by undue confinement of interests, and depraves the morals by improper associations. The victim ages before his time, and very likely breaks down and becomes a public charge just when his earning power should be at its maximum.

Economically, child labor is an unmixed evil. It hinders the progress of improvement as cheap labor always does. It is expensive to the employer because of want of judgment and the inattention and wastefulness of young children. It depresses the wages of adults, reducing instead of increasing the family income in the end. It helps to lower the standard of living for the next generation. Accordingly, all enlightened governments have thought it necessary to enact legislation

enforcing a minimum school attendance and restricting the employment of children in occupations deemed especially injurious.

TARDINESS OF CHILD LABOR LEGISLATION IN IOWA

Iowa has been slower to move in the matter of such legislation than many of the other States, for the need of it has been felt less keenly. Iowa is still essentially an agricultural State, 40.7 per cent of the persons engaged in gainful occupations within her borders being employed upon the farm.⁴⁰⁷ The cities of the State are small, only one-fifth of her entire population living in towns of eight thousand inhabitants or above.⁴⁰⁸ Few recent immigrants of foreign birth come to Iowa, and these chiefly from northern and western Europe.⁴⁰⁹ The people are noted for their intelligence and well-being, and have been proud of their high percentage of literacy, maintained without compulsory education. Hence little was done in the way of enacting child labor or school attendance laws before the opening of the twentieth century.

REGULATION OF CHILD LABOR IN MINES

The little legislation that had been enacted had reference only to the employment of children in mines—of all occupations admittedly the most harmful to the child. There are no breakers in Iowa, but very young boys were formerly employed as trappers and oilers, or were even taken into rooms to assist in digging and loading.

The first regulatory act was passed in 1874 and provided that "No young person under ten years of age, or female of any age, shall be permitted to enter any mine to work therein; proof of age to be made by certificate or otherwise."⁴¹⁰ The age limit was raised to twelve years in 1880.⁴¹¹ But the first report of the State Mine Inspector, only three years later, declared that this law was being continually violated. The Inspector urged that parents "should be required to furnish an affidavit in regard to the ages of their boys" and that "no person between the ages of twelve and sixteen

years should be permitted to work in any mine unless he can read and write."⁴¹² The "Act to Regulate Mines and Mining," passed at the next session of the legislature (1884), embodied a part only of these recommendations. Section thirteen, relating to child labor, reads:

No boys under twelve years of age shall be permitted to work in any mine; and parents or guardians of boys shall be required to furnish an affidavit as to the ages of their boys when there is any doubt in regard to their age, and in all cases of minors applying for work the agent or owner of the mines shall see that the provisions of this section is [are] not violated.⁴¹³

This law remained on the statute books without substantial change down to 1906, when the age limit for employment in mines was raised to fourteen years.⁴¹⁴ The United Mine Workers have always made a vigorous effort to keep children out of the mines. In many places no boy under sixteen is employed under ground; in others, only a few trappers and oilers are below that age. Sometimes, however, a young boy is allowed to work beside his father or other relative during school vacation. In a few instances the Mine Inspector has had to order out boys under the legal age.⁴¹⁵

EARLY ATTEMPTS TO SECURE A CHILD LABOR LAW

The Knights of Labor and others interested in the welfare of working children were not satisfied with the law of 1884. The question of child labor was in the eighties just beginning to attract national attention. Laws to restrict the employment of children were enacted or amended within this decade by Massachusetts, Connecticut, Maine, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Wisconsin, and perhaps a few other States. It was felt that Iowa should not be behind the other Commonwealths in the protection of children.

Among the earliest champions of child labor legislation in this State was Senator W. W. Dodge of Burlington, a member of one of the most distinguished families in the history of Iowa. Senator Dodge's first child labor bill, pro-

hibiting the employment of children under fifteen years of age in mines, factories, and work-shops, was presented at the legislative session of 1886.⁴¹⁶ It was killed in the Senate Sifting Committee.⁴¹⁷ Two years later Mr. Dodge secured the passage of a Senate resolution directing the Commissioner of Labor Statistics to investigate "child labor in the mines, factories and work-shops of Iowa, the extent to which it is employed, the effect thereof, if any, upon the physical and mental condition of the children, the kind of labor in which they are employed and report such information with any recommendations relating thereto he may deem proper in his next biennial report *without additional expense to the State.*"⁴¹⁸

The provision against incurring expense operated to defeat in large measure the purpose of the investigation. Nevertheless, Commissioner Hutchins managed to gather considerable information by correspondence. Eighty-five cities and towns reported 1,765 children at work. The employments of these children were: Water carrying, errands, off bearing, putting glass in sashes, cleaning glass points, feeding machines, turning wood, making laths and shingles, polishing furniture, cloth covering, bobbin winding, packing traps, rubbing and cleaning, cording and twisting, cutting and sewing linings, running drills, machine painting, cutting screw threads, labeling, box making, and packing shingles.⁴¹⁹

The report of the Commissioner of Labor produced little impression upon the legislature. Senator Dodge's bill, with the age limit changed from fifteen to fourteen years, was again introduced at the session of 1890, and again killed in committee.⁴²⁰ A substitute resolution calling for a further investigation likewise failed to pass.⁴²¹ Another bill by Dodge to punish the exhibition of children under fourteen for hire was indefinitely postponed by the same General Assembly (1890).⁴²² Mr. Dodge retired from the Senate in 1892, and the subject of child labor was not again taken up by the legislature for ten years.

GROWTH OF CHILD LABOR IN IOWA

Iowa has undergone great industrial and social changes in the more than thirty years since the enactment of her first child labor law. The proportion of her working people engaged in non-agricultural pursuits rose from thirty-nine per cent in 1870 to fifty-nine per cent in 1905.⁴²³ The value of her manufactures increased almost fourfold during the same period, and the number of employees in manufacturing establishments grew from 25,032 to 49,482.⁴²⁴ In 1870 there was no city of twenty-five thousand inhabitants in the State; in 1905 there were seven such cities, with an aggregate population of nearly two hundred and eighty thousand.⁴²⁵ Iowa is ceasing to be an exclusively rural community and is taking on the complexity of an advanced society.

These changes, particularly the growth of urban conditions, have brought with them many new problems, among which those of child labor and school attendance early became prominent. The census of 1900 showed that 29,410 persons under sixteen years of age were engaged in gainful occupations in Iowa—being thirty-seven in every thousand persons so engaged, and one-tenth of the whole number of persons between the ages of ten and sixteen years in the State.⁴²⁶ But of these youthful wage-earners, 19,520 were engaged in agricultural pursuits and 5,771 in domestic and personal service—neither of which employments has ever been supposed to require special restrictive legislation. This leaves in objectionable occupations 4,119 children, of whom 735 were under fourteen, and 171 were under twelve.⁴²⁷ The number working in factories, stores, offices, and mines is not separately reported in the *Census* and cannot be accurately ascertained. Employers' returns to the State Bureau of Labor Statistics in 1898 showed 623 children at work in manufacturing and mercantile establishments. By 1902 the number so reported had risen to 2,630, an increase of 323.16 per cent in four years.⁴²⁸ The Bureau's returns were very incomplete, since only establishments employing five or more per-

sons were required to report, and since employers were averse to giving information on this subject. The Commissioner of Labor was convinced from personal observation that the number actually employed was more than double that reported.⁴²⁹ Nevertheless, the figures do show a rate of increase that threatened to make child labor a serious menace in the near future.

In reference to this menace Commissioner Wennerstrum says in his official report of 1901 (p. 21) that "Many of these children were employed at tasks that involved hard and laborious work. They were employed for the same number of hours as mature men, and were given no privileges or special exemptions from work. I took special pains to observe the physical condition of the children that I found working in the factories, and they impressed me by their wan and overworked appearance. In many cases they were in a run-down condition, and seriously weakened. In almost every instance the employers of these children, when I first approached them with my inquiries, indicated very markedly their own sense of wrong done the children by such early employment in the fact that they were under the impression that they were violating a state law I found in a number of cases that the children had never attended school, that some had attended but a short time and had but little knowledge of books or ability to use books."

Two years later Commissioner Brigham reported that "Children were found in some establishments who were only ten years old and many who were but twelve, the appearance of such children was pathetic in the extreme, surrounded as many were by the dirt and grime of their employment, and to realize that such conditions existed in fair Iowa with no legal authority to prevent it made the work of factory inspection difficult and appealing."⁴³⁰

The conditions as regards child labor were by no means as bad in Iowa as in the Cotton Belt or in such northern States as Pennsylvania and Rhode Island. Yet in the ratio

of adults to children in manufacturing and mechanical pursuits, Iowa in 1900 ranked thirty-fourth among the Commonwealths of the Union.⁴³¹ The facts were surely sufficient to indicate the desirableness of restrictive legislation.

FACTORY ACT OF 1902

The first forward step was in the direction of protecting the lives and limbs of working children. Statistics of industrial accidents always show a disproportionate number of injuries to workers under sixteen years of age, and this for the very reason that the prudence and forethought by which such injuries may be largely avoided are qualities very rare in a young child.⁴³² That Iowa is no exception to the rule is indicated by the all too frequent occurrence in the factory inspection reports of items like the following: "One boy fifteen years old had hair caught in belt and killed in button factory";⁴³³ "Bell boy crushed to death below moving elevator weights";⁴³⁴ "young girl aged fourteen had hair caught in cream separator which was running rapidly and had scalp torn off."⁴³⁵ Details such as these illustrate the inhumanity of permitting young children to operate high-speed machinery.

The factory act of 1902 was intended to put a stop to this practice. It provides that "No person under sixteen years of age, and no female under eighteen years of age shall be permitted or directed to clean machinery while in motion. Children under sixteen years of age shall not be permitted to operate or assist in operating dangerous machinery, of any kind."⁴³⁶

This act did not fully accomplish the object for which it was designed. Elevator boys apparently were not included in its provisions;⁴³⁷ while, in spite of the prohibition, children were still allowed to operate actually dangerous machinery in button factories, cereal mills, laundries, glove factories, and elsewhere. So long as children are permitted to work at all in such places it will be very difficult to prevent their employment about dangerous machinery. Some em-

ployers entered into criminal conspiracy to violate the law, as is shown by the following waiver of liability:

COPY OF RELEASE FORM FOR CHILD EMPLOYMENT⁴³⁸

I state that I am years old; that I am fully competent to do the work I now apply for with said company; that I have before worked for myself at different occupations when dangerous machinery was used, that I am able to comprehend the dangers of such work, as now applied for, and if given employment by the above named company I will assume all dangers and risks of personal injury connected with such employment, and do hereby *wave* the dangers incident to the manner in which such machinery is constructed, guarded or operated.

..... Applicant.

Dated, 19....

Advocates of the freedom of contract may find in the above instrument an excellent illustration of the working of their favorite theory.

COMPULSORY EDUCATION

As far back as 1841 the first Superintendent of Public Instruction recommended a compulsory education law.⁴³⁹ This recommendation was many times renewed by his successors in office, as well as by teachers' associations and prominent educators.⁴⁴⁰ It was not, however, until 1902 that a beginning of such legislation was made. The act of that year required any person having control of any child of the age of seven to fourteen years, inclusive, in proper physical and mental condition to attend school, to cause such child to attend some public, private, or parochial school for at least twelve consecutive school weeks in each year. A fine of not less than three nor more than twenty dollars was prescribed for each violation. The board of directors of each school corporation was authorized, but not required, to establish truant schools and to appoint truant officers.⁴⁴¹

The law of 1902 was not found to work satisfactorily. The act did not specify when the required attendance should

commence, and this made it easy of evasion. Comparatively few corporations appointed truant officers, and in the absence of such officers the law was very often ignored.

Some of these defects were remedied in 1904. The amendment of that year changed the attendance requirement to sixteen consecutive weeks in each school year, commencing with the first week of school after the first day of September, unless the directors should determine upon a different date not later than the first Monday in December. At the same time the appointment of truant officers was made mandatory in school corporations having a population of twenty thousand or more.⁴⁴²

To ascertain the effectiveness of this law, a series of questions was submitted by the Department of Public Instruction, to the several city and county superintendents of the State. From replies received it was estimated that 3,008 children had been brought into school through the compulsory law during the period 1902-1906, and that 1,934 were brought in within the last school year covered by that report.⁴⁴³ The number of children of the ages of seven to fourteen, reported by school secretaries as not attending school, for the period required by law, during these same years is shown in the following table:⁴⁴⁴

SCHOOL-YEARS	WHOLE NUMBER OF CHILDREN 7 TO 14 YEARS	CHILDREN 7 TO 14 YEARS NOT AT- TENDING SCHOOL AT LEAST 16 WEEKS	PER CENT OF NON- ATTENDANCE OF CHILDREN 7 TO 14 YEARS
1902-1903	387,989	8,876	2:3
1903-1904	387,378	6,060	1:6
1904-1905	385,147	7,142	1:8
1905-1906	377,842	5,445	1:4
1906-1907	366,972	6,820	1:8

The reports of non-attendance are based upon the unverified statements of parents at the annual school census.⁴⁴⁵

They are, accordingly, quite inaccurate, but much more likely to err on the side of deficiency than excess. For this reason no special significance can be attached to the fluctuations from one year to another; the number of omissions is always more than sufficient to permit considerable variations in the returns without any change in actual non-attendance. Taking the figures at their face value, they certainly do not indicate any marked improvement in the enforcement of the compulsory attendance law since it was first enacted in 1902. There are no data for comparison with conditions before that year. It seems clear that the compulsory attendance law is now fairly well enforced in most of the larger cities of the State—those having twenty thousand or more inhabitants.⁴⁹⁶ In these cities the appointment of truant officers is obligatory. Moreover, the school systems are generally well organized and the school officers are apt to be men of intelligence and public spirit. The annual school census is taken with greater care than is usual in the smaller places, and the truant officer is expected to see to it that every child on the secretaries' books, within the age limits of the compulsory law, attends some regular school. The humane societies, the juvenile courts, and other social agencies (which are either wholly wanting or less efficient in the smaller centers of population) do much toward the enforcement of the school law in the larger cities.

In several of the most important cities of the State, the school authorities interpret the requirement of consecutive attendance strictly. Children who miss a single day without satisfactory excuse are reported to the truant officer, and pressure is exerted to keep children in school after the expiration of the required sixteen weeks. These efforts are generally successful. In most cases a visit of the truant officer to the parents is sufficient to secure compliance with the law. "The wise officer, using tact and common sense can usually deal with the parent without resorting to the courts."⁴⁴⁷ Thus, while more than three thousand children

were brought into school by the compulsory law during the first four years of its operation, there were, during the same period, but 151 prosecutions and 122 convictions in the entire State for violation of its provisions.⁴⁴⁸ All but two of these cases arose in graded schools.⁴⁴⁹

So far as is known no school board in Iowa has availed itself of the permission to establish truant schools. But a much more valuable institution is provided for by an act of the Thirty-second General Assembly (1907) which requires every county having a population of more than fifty thousand to maintain a detention home for dependent, neglected, and delinquent children.⁴⁵⁰ In these homes habitual truants will not merely be separated from their school fellows, upon whom they may exert an undesirable influence, but they will be taken away from the unfortunate home environment which is so largely responsible for truancy as it is for juvenile crime. The act immediately affects the four largest cities in the State and is expected to be productive of much benefit.

In many towns of five thousand people and upwards truant officers have never been appointed. In such towns non-attendance is of frequent occurrence, and is without adequate remedy. There being no one whose business it is to enforce the law, children who ought to be in school are allowed to loaf upon the streets, or to congregate in alleys and on vacant lots. In rural communities there is less idleness, but the conditions as regards school attendance are even worse. Very few school townships, and hardly any independent districts, have truant officers.⁴⁵¹ It is, to be sure, the duty of the school director or the president of the board to prosecute violators of the law, and this duty becomes mandatory upon receipt of written notice from a resident of the district,⁴⁵² or from the county superintendent.⁴⁵³ But few persons care to incur the hostility of their neighbors by giving notice of violations and most county superintendents have been too timid to use their authority. Thousands of parents in all parts of the State are unwilling to send their children to

school, and in many communities there is no public sentiment in favor of compelling them to do so.

For the reasons just stated the compulsory attendance law has remained a dead letter in large sections of the State.⁴⁵⁴ To make it generally effective the appointment of truant officers ought to be made obligatory in every school township and in every city independent district. Prosecutions ought to be far more numerous than they are, particularly in the country. No argument appeals to negligent and avaricious parents like an occasional fine and imprisonment. The public schools can never secure their object of universal education until the compulsory attendance law is generally enforced.

THE CHILD LABOR AGITATION 1900-1906

The two laws secured in 1902 (namely, the factory act and the compulsory education act) were each a step in mitigation of the evils of unregulated child labor. But they did not eradicate those evils. The school law applied only to twelve (now sixteen) weeks in the year, while the factory law did not prevent the employment of young children in offices and stores, or in those departments of factory work where dangerous machinery is not used. Said Commissioner of Labor Brigham in 1903: "If not forced by a truant officer to go to school twelve weeks, the child remains continuously employed, as no penalty attaches to the employer. . . . At the present rate of increase Iowa will have in 1910 at least four thousand children in factories; and those enumerated at the preceding census will probably by that time have become paupers and invalids, surely illiterates, to say nothing of the per cent that will be crippled and maimed."⁴⁵⁵

The need of a child labor law was brought to public notice by Commissioner of Labor C. F. Wennerstrum in 1901 as a result of his work in factory inspection. The Commissioner described the deplorable conditions he had found, cited the legislation of other States, and recommended the passage of a law prohibiting the employment of children under fourteen years of age in factories and mines.⁴⁵⁶

At the next session of the legislature (1902) Senator G. W. Lister introduced a bill which forbade the employment of children under fourteen years old in mines, factories, workshops, or places of public entertainment, except that a child over twelve years of age might work anywhere but in coal mines if the president of a school board should certify that the labor of such child was necessary for the support of an aged or infirm parent, or of a brother or sister.⁴⁵⁷ This bill was supported by the State Federation of Labor;⁴⁵⁸ it passed the Senate after amendment in committee and upon the floor, but never reached a vote in the House.⁴⁵⁹

Thus the attempt to secure a child labor law had again failed. But the question of abolishing child labor in Iowa had at last been brought before the public. From this moment agitation of the subject was never allowed to cease until a fairly good law had been placed upon the statute books. The Iowa Branch of the American Federation of Labor led the way in this propaganda.⁴⁶⁰ The Federation of Women's Clubs took up the movement in 1903, appointing a Child Labor Committee composed of Mrs. W. H. Baily of Des Moines, Mrs. Horace E. Deemer, of Red Oak, and Mrs. Maria Purdy Peck, of Davenport.⁴⁶¹ Other organizations, such as the Women's Christian Temperance Union, the King's Daughters, and the State Teachers' Association lent their moral support to the cause. Mr. E. D. Brigham, who in 1902 had succeeded Mr. Wennerstrum as Commissioner of Labor, presented a severe arraignment of existing conditions in his first biennial report.⁴⁶²

Thus when the Thirtieth General Assembly convened in January, 1904, there was already considerable public opinion favorable to child labor legislation. Commissioner Brigham had asked for "a law to restrict the employment of children for gain during the terms that schools are open and until an eighth grade certificate is furnished by city or county superintendent of schools."⁴⁶³ The Governor's message referred to the need of legislative action, without proposing any

specific measure.⁴⁶⁴ But legislative interest chiefly centered about a bill drafted by Mr. W. H. Baily, of Des Moines, under the auspices of the Federation of Women's Clubs.

Mr. Baily, after conferring with Miss Florence Kelly of the National Consumers' League and comparing the laws of Massachusetts, New York, Ohio and Illinois, had drawn a bill which was approved by Justice Horace E. Deemer of the Supreme Court and by the Commissioner of Labor.⁴⁶⁵ Its full text is as follows:⁴⁶⁶

A BILL

FOR AN ACT TO REGULATE THE EMPLOYMENT OF CHILD LABOR AND TO PROVIDE FOR THE ENFORCEMENT THEREOF. (ADDITIONAL TO CHAPTER 8, TITLE XXI OF THE CODE.)

Be it Enacted by the General Assembly of the State of Iowa:

Section 1. No child under fourteen years of age, and no child under sixteen years of age who is less than sixty inches in height and eighty pounds in weight, shall be employed in any mine, quarry, manufacturing establishment, factory, mill, workshop or mercantile establishment.

No such child shall be employed in work performed for wages or other compensation to whomsoever payable, during the hours when the public schools of the school corporation in which he resides are in session.

No such child shall be employed in any work, performed with or without wages or other compensation, during the hours when the public schools of the school corporation in which he resides are in session unless he has within the last twelve months attended a public or parochial school for the period provided by law.

Sec. 2. No child under sixteen years of age shall be employed in any work which by reason of the nature of the work or the place of performance is dangerous to life or limb or in which its health may be injured or its morals may be depraved, or in any place where intoxicating liquors are sold or given away.

No female child under sixteen years of age shall be employed in any capacity where such employment compels her to remain standing constantly.

No child under sixteen years of age shall be employed at any work in any mine, quarry, manufacturing establishment, factory, mill,

workshop or mercantile establishment, before the hour of six o'clock in the morning or after the hour of seven o'clock in the evening, nor shall such child be employed at any work more than ten hours in any one day or more than fifty-five hours in any one week.

Evidence that any building or place is erected or maintained or business is conducted contrary to or in violation of any law of the state or of any ordinance of any city or town or regulation of a board of health or of any notice given by the Commissioner of the Bureau of Labor Statistics pursuant to section twenty-four hundred and seventy-two of the code shall be *prima facie* evidence that such building or place or business is dangerous within the meaning of this act. The taking by an employer of any waiver or release from liability for damages for future personal injuries shall be *prima facie* evidence that the business or employment is dangerous within the meaning of this act.

The presence of a child under sixteen years of age in any mine, manufacturing establishment, factory, mill or workshop shall be *prima facie* evidence of his employment therein.

Sec. 3. No child under sixteen years of age shall be employed in any mine, quarry, manufacturing establishment, factory, mill, workshop or mercantile establishment unless the person, firm, or corporation employing him procures and keeps on file, and accessible to any officer or person authorized to inspect the same or such place of business, an age and schooling certificate as hereinafter prescribed, and keeps two complete lists of all such children employed therein, one on file, and one conspicuously posted near the main entrance of the building in which such children are employed and sends a copy of said list to the Commissioner of the Bureau of Labor Statistics and to the Superintendent of Schools of the school corporation in which such business is carried on, or where there is no superintendent, to the secretary of the school corporation, the names of all minors employed therein who cannot read at sight and write legibly simple sentences in the English language. A failure to produce to any officer or person authorized to inspect the same, any age and schooling certificate, or list required to be kept, or to keep or post any certificate or list required to be kept or posted, shall be *prima facie* evidence of the illegal employment of any person whose age and schooling certificate is not produced or whose name is not so listed.

Sec. 4. An age and schooling certificate shall be approved only by the superintendent of schools of the school corporation in which the child resides or by a person authorized by him in writing, or where there is no superintendent of schools, by the secretary of the school corporation or other person authorized by the school board. No such officer or person shall have authority to approve such certificate for any child therein or about to enter his own employment or the employment of any person, firm or corporation of which he is a member, officer, or employe, or in whose business he is interested. The officer or person approving such certificate shall have authority to administer the oath provided for therein or in any investigation or examination necessary to the approval thereof.

Whenever complaint in writing and under oath is made to the judge of a court of record, by any officer or person authorized to inspect such certificate or the place or business where the holder thereof is employed, that any such certificate has been improperly approved, or by any such child or his parent, guardian, or custodian that the approval of such certificate has been improperly refused, said judge may investigate such complaint in a summary manner and shall approve or refuse to approve or revoke said certificate according to the provisions of this act and shall file said complaint and other papers with a statement of his action thereon in the proper office.

The board of directors of each school corporation shall establish and maintain proper records where all such certificates and all documents connected therewith shall be filed and preserved and shall provide the necessary clerical service for carrying out the provisions of this act.

No fee shall be charged for approving any such certificate or for administering any oath or rendering any service therein.

Sec. 5. An age and schooling certificate shall not be approved unless satisfactory evidence is furnished by the last school census, the certificate of birth or baptism of such child, the register of the birth of such child with the clerk of the district court or other public office or officer, or by the records of public or parochial schools, that the child is of the age stated in the certificate. In cases where it is made to appear by satisfactory evidence that the above proof is not obtainable the age of the child may be proved by affidavit of the parent or guardian of such child or other person having personal knowledge of the fact.

Sec. 6. The age and schooling certificate of a child under sixteen years of age shall not be approved and signed until he presents to the person or officer authorized to approve and sign the same, a school attendance certificate as hereinafter prescribed, duly filled out and signed. A duplicate of such age and schooling certificate shall be filled out and kept on file by the school authorities and a like duplicate shall be filed with the Commissioner of the Bureau of Labor Statistics. Any explanatory matter may be printed with such certificate in the discretion of the school board or the superintendent of schools. The school attendance and the age and schooling certificate shall be separately printed and shall be filled out, signed, held and surrendered as indicated in the following forms:

SCHOOL ATTENDANCE CERTIFICATE

(For minor who can read and write)

..... (name of school), (city or town), Iowa, date, 19....

This certifies that (name of minor) of theth grade, can read at sight and write legible simple sentences in the English language.

This also certifies that according to the records of this school and in my belief, the said (name of minor) was born at (name of city or town) in county, state of, on the (date) and is now years and months old.

..... (name of parent or guardian),
..... (residence).

(Signature) Teacher.

CORRECT. (Signature) Principal.

SCHOOL ATTENDANCE CERTIFICATE

(For minor who can not read or write)

..... (name of school), (city or town), Iowa, (date), 19....

This certifies that (name of minor) is registered in and regularly attends the (name of school).

This also certifies that according to the records of this school and in my belief, the said (name of minor)

was born at (name of city or town) in
 county, state of, on the
 (date) and is now years
 months old.

..... (name of parent or guardian),
 (residence).

(Signature) Teacher.

CORRECT. (Signature) Principal.

AGE AND SCHOOLING CERTIFICATE

..... (city or town), Iowa, (date), 19...

This certifies that I am the (father, mother,
 guardian or custodian) of (name of
 minor) and that (he or she) was born at
 (name of city or town), in county, state of,
 on the (date of birth) and is now
 years months old.

(Signature of father, mother, guardian or custodian)

..... (name of city or town)

Iowa, (date), 19....

There personally appeared before me the above named
 (name of person signing) and being sworn tes-
 tified that the foregoing certificate by (him or her)
 signed is true to the best of (his or her) knowledge
 or belief. I hereby approve the foregoing certificate of
 (name of minor), height feet
 inches, weight pounds
 ounces, complexion (fair or dark), hair
 (color) having no sufficient reason to doubt that (he
 or she) is of the age therein certified. I hereby certify that
 (he or she) (can or cannot) read at sight and
 (can or cannot) write legibly simple sentences in the English lan-
 guage.

(In case the child cannot read at sight and write legibly simple
 sentences in the English language, insert here the following:

I further certify that (he or she) is regularly attend-
 ing the (name of school). This certificate shall
 continue in force only so long as the regular attendance of said child
 at said school is certified weekly by a teacher thereof.)

This certificate belongs to (name of minor) and is to be surrendered to (him or her) whenever (he or she) leaves the service of the person, firm or corporation holding the same as employer, but if not claimed by said child within thirty days from such time it shall be returned to the superintendent of schools or the secretary of the school corporation.

.....
(Signature and official title of person authorized to approve and sign.)

Sec. 7. No person shall employ any minor over fourteen years of age, and no parent, guardian or custodian shall permit to be employed any such minor under control who cannot read at sight and write legibly simple sentences in the English language while a public or parochial evening school or other free evening school is maintained in the school corporation in which such minor resides or is employed, or in an adjoining school corporation reasonably accessible to his place of residence, unless such minor is a regular attendant at such evening school or at a day school. Upon presentation by such minor of a certificate signed by a regular practicing physician, and satisfactory to the officer or person authorized to approve an age and schooling certificate, showing that the physical condition of such minor would render such attendance in addition to his daily labor prejudicial to his health, said officer or person authorized to approve an age or schooling certificate shall issue a permit authorizing the employment of such minor for such period as such officer or person shall determine. Said person or officer authorized to approve age and schooling certificates, or teachers acting under his authority, may excuse any absence from such evening school arising from justifiable cause.

Sec. 8. Every employer of minors in any mine, quarry, manufacturing establishment, factory, mill, workshop, or mercantile establishment shall post in a conspicuous place in every room where such minors are employed, a printed notice stating the number of hours required of them on each day of the week, the hours of commencing and stopping work, and the hours when the time or times allowed for dinner or other meals begin and end. There shall be allowed at least thirty minutes for meal time at dinner. The time allowed for meals shall not be included as a part of the work hours of the day. The printed form of such notice shall be furnished by the

Commissioner of the Bureau of Labor Statistics. The employment of any such minor for a longer time in any day than that so stated in such notice shall be deemed a violation of the provisions of this act.

SEC. 9. Truant officers, sheriffs, constables, mayors, town or city marshals, and other peace officers within the districts or territory for which they are elected or appointed, state mine inspectors, inspectors of factories and the Commissioner of the Bureau of Labor Statistics and his deputies and assistants may visit any mine, quarry, manufacturing establishment, factory, mill, workshop, mercantile establishment or other place where labor is employed and ascertain whether any minors are employed therein contrary to the provisions of this act, and whether the provisions of this act in respect to posted lists and notices, age and schooling certificates, reports and other matters are complied with. Such officers may require that the age and schooling certificates and the lists provided for in this act shall be produced for their inspection. Such officers shall report any cases of illegal employment to the Secretary of the School Corporation in which the minor resides and in which he is employed; and such officers shall report any cases of illegal employment or any violation of or failure to comply with any of the provisions of this act to the county attorney and sheriff of the county, to the city solicitor of the city and marshal of the city or town and to the Commissioner of the Bureau of Labor Statistics.

Sec. 10. Any parent, guardian or other person who, having under his control any minor, causes or permits said minor to work or be employed in violation of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined not more than twenty-five dollars (\$25.00) or be imprisoned for not more than ten days.

Any person failing to produce to any officer or person authorized to inspect the same, any age and schooling certificates or lists required by this act, and any employer or other person retaining any such age and schooling certificate in violation of the provisions of this act, shall be guilty of a misdemeanor and upon conviction shall be fined not more than twenty-five dollars or be imprisoned not more than ten days.

Any person authorized to sign any certificate provided for in this act who certifies to any materially false statement shall be guilty of

a misdemeanor and upon conviction shall be fined not more than one hundred dollars (\$100.00) or be imprisoned not more than thirty days. Every person, firm or corporation, agent or manager, superintendent or foreman of any person, firm or corporation, whether for himself or for any person, firm or corporation or by himself or through sub-agents or foreman, superintendent or manager, who shall violate or fail to comply with any of the provisions of this act, or shall refuse admittance to any officer or person authorized to visit or inspect any premises or place of business under the provisions of this act, or shall otherwise obstruct such officers in the performance of their duties as prescribed by this act, shall be guilty of a misdemeanor and upon conviction shall be fined not less than five dollars (\$5.00) or more than one hundred dollars (\$100.00) or be imprisoned not less than two days or more than thirty days.

Sec. 11. It shall be the duty of the Commissioner of the Bureau of Labor Statistics to carry out and enforce the provisions of this act, and it shall be the duty of every sheriff or city or town marshal, when informed by any officer authorized to inspect places where labor is employed, that any of the provisions of this act have been violated, to file or cause to be filed information or informations against the person or persons guilty of such offense and to notify the city solicitor or county attorney thereof, and it shall be the duty of every city solicitor and county attorney so notified of the filing of an information, to attend and prosecute the same. Any county attorney, sheriff, city solicitor or a city or town marshal who shall fail or refuse to perform any duties prescribed by this section shall be guilty of a misdemeanor.

Sec. 12. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

This elaborate bill was introduced in the Senate on January 30 by C. C. Dowell of Polk County, was favorably reported by the Judiciary Committee, was amended by excepting mercantile establishments from the provisions of section one and by striking out section seven relative to the employment of illiterate children, and was finally passed on February 18 by a vote of thirty-nine to eight.⁴⁶⁷

In the House the bill encountered a more determined opposition. A majority of the Representatives were from

country districts or small towns, and while anxious to promote the best interests of the State they were unacquainted with the conditions in the larger cities that made a child labor law necessary. Many of the members honestly believed that the proposed law "would throw boys on the streets to spend the time in idleness, who would be much better off and make better citizens if employed." Some thought the bill too inclusive; and much was made of the prohibition of work during school hours in section one, which was held to affect boys on the farm. Special interests, notably the canning establishments and the button factories, protested that "their business would be ruined" if they were not permitted to employ children under fourteen. Many objections were raised to the twofold certificate plan as needlessly cumbrous. The sole-support-of-a-widowed-mother argument was used with considerable effect.⁴⁶⁸

These arguments, aided by legislative inertia and the natural conservatism of rural members, sufficed to defeat the bill. The Child Labor Committee of the Federated Women's Clubs and the Legislative Committee of the State Federation of Labor, under the leadership of President A. L. Urick, used every exertion in support of their favorite measure.⁴⁶⁹ Petitions poured in from the local unions and clubs, and from benevolent societies throughout the State the Representatives were flooded with literature showing the evils of child labor.⁴⁷⁰ Yet in spite of all efforts, and notwithstanding the support of many of the leaders of the House, the final vote stood fifty-five nays to thirty-five yeas.⁴⁷¹

Inasmuch as the objections raised to the child labor bill of 1904 were again put forward in 1906 and are likely to be urged in the future against proposed extensions of the present law, it may be well to devote some space to a discussion of them.

First. It is argued that work is better for the child than idleness, that regular employment for wages possesses distinct disciplinary and educational value.

This argument assumes that if children are not allowed to work in factories and stores, they will be thrown upon the street. It appears to be forgotten that the public schools are open nine months in the year and that school attendance has a higher educational value for young children than any form of gainful employment.

The responsibilities of life come quite early enough at sixteen. The prolongation of the period of infancy makes for a higher type of manhood and womanhood. Play itself is an important means of development. It is the natural perquisite of the young—human as well as animal.

To keep children off the street becomes a serious problem in the larger cities. But public playgrounds and out-of-doors vacation schools are far better solutions of this problem than putting the little ones into factories.

Second. Self-made men often deny that labor injures the child, citing their own experience in confirmation. "I had to work when I was a boy," declared more than one member of the legislature, "and I don't believe it hurt me any." But the work which these men did as boys was usually not done in coal mines, department stores, or large factories. The object of the law is not to forbid all employments, but those only which threaten the health or morals, or interfere with the education of the child. And there can be no doubt, notwithstanding some individual exceptions, that hard and continuous labor, particularly when performed indoors, is physiologically injurious to children below the age of sixteen years.⁴⁷² That the moral influences of factory labor are not good is just as little open to question.

Third. Country legislators object to the prohibition of employment during school hours, on the ground that farmers need the help of their boys in the plowing and corn-husking seasons.

This argument, like the others, will not bear analysis. It is affirmed that the labor of boys under fourteen is not indispensable to the prosperity of any large number of Iowa

farmers. No objection can be offered to a moderate amount of home work during vacation and on Saturdays, or to morning and evening chores, so long as these do not interfere with the child's progress at school. But there can seldom be any justification for keeping a fourteen-year old boy out of school to help with the work on the farm. The completion of a common school course is worth far more to the child, even in an economic view, than the value to his parents of any services he may render at home.

Fourth. In reply to the contention of the canners, button-makers, and other special interests that a child labor law would drive these industries out of Iowa, it is sufficient to cite the experience of other States. Legislation quite as stringent as that proposed in Mr. Baily's bill has not checked the growth of vegetable canning and preserving in Illinois or New York.⁴⁷³ Nor has such legislation prevented the latter State from outstripping Iowa in the business of button finishing—the only department of button-making in which child labor is an important factor. In 1900 our own State excelled every other State in the production both of buttons and of buttons blanks from fresh-water shells; in 1905 New York had forged ahead in the number and value of finished buttons, though Iowa still maintained a great lead in blank-cutting which is done almost entirely by men.⁴⁷⁴ Such facts would seem to show that these businesses can be profitably carried on without the employment of children under fourteen.

Child labor is in fact unprofitable, as the writer has been repeatedly assured by the employers themselves. "We don't want the babies," said the largest button manufacturer in Iowa, "they don't watch their business and they spoil too many buttons." The manager of an up-to-date department store estimated the first cost of the automatic carrier system there used at fifteen hundred dollars, and the annual maintenance charge, including interest, at two hundred dollars. It does the work of six children at one hundred and fifty dollars per year each, besides saving floor space, avoiding con-

fusion in the aisles, and quickening the delivery of goods to the customer—a very important consideration. “Where children are used,” declared this manager, “the salesman often has to call ‘bundle’ or ‘cash’ two or three times before he can get attention.” The floorwalker in another store remarked that “it takes one man with a club to keep the kids in their places.” About twenty children are employed in this store.

The above are typical statements. They indicate strongly that the fear of permanently hindering industrial development by restraining the exploitation of childhood is without foundation in fact.

Fifth. It is often urged by the defenders of child labor that many families and many widowed mothers especially are wholly dependent upon the earnings of young children for the means of subsistence. The poor-widow argument, as it is called, has done duty for more than a century whenever it has been proposed to place any restriction upon the employment of children, but it is not well supported by the facts. The United States Census Bureau recently made a detailed study of 23,657 wage-earners between the ages of ten and fifteen.⁴⁷⁵ These children belonged to 20,402 families, comprising 44,618 older bread winners. In only 3,958 cases, or 16.7 per cent of the entire number investigated, was a child worker living with a widowed, divorced, or deserted mother; and but 188 families, or less than one per cent, had no bread winner past fourteen. These 188 families had 632 dependents, an average of 3.36 each—clearly too many to subsist on the earnings of one or two young children. Since such families must receive outside assistance in any case, it seems better for society to support them outright than to sacrifice the future of children in no way responsible for the misfortune of their parents. As for the 17,956 child bread winners—more than three-fourths of the whole number included in the report—who were living with father and mother and generally with older brothers and sisters, some other cause than destitu-

tion must be sought for their employment. Sometimes this cause is found in family extravagance or mismanagement. Again it is short-sighted thrift or pure avarice. Very often children desire to work on their own account in order to have pocket money or to escape from school. All too frequently it is idleness and dissipation on the part of the father which forces the mother to put her children to work.⁴⁷⁶

The opponents of child labor were not disheartened by their defeat in 1904. So far from giving up the contest, they at once set about securing a more effective organization. Dr. Samuel McCune Lindsay, Secretary of the National Child Labor Committee, twice visited Iowa during the ensuing year, and upon his initiative the Iowa Child Labor Committee, comprising many of the most prominent men and women of the State, was formed early in 1905. Somewhat later an Executive Committee was chosen by ballot. The membership of this sub-committee, upon which devolved the active duties of legislative management, was as follows: Professor Isaac A. Loos of The State University of Iowa, Chairman; Mrs. A. B. Cummins; Commissioner of Labor E. D. Brigham; Mr. A. L. Urick, President of the State Federation of Labor; Mrs. T. J. Fletcher of Marshalltown; Mrs. J. C. Hallam of Sioux City, and President A. B. Storms of the Iowa State College.⁴⁷⁷ The purpose of the organization, as stated by Professor Loos, was to assist in "creating a clear and well-defined public opinion in favor of the timeliness of a properly framed law on this subject before those evils associated with unregulated child labor fasten themselves in the life of our Commonwealth."⁴⁷⁸

A campaign of education was carried on through the summer and fall. The State Federation of Labor had begun to issue a series of child labor leaflets in the preceding September. Six numbers in all were published and a total of thirty-five thousand copies distributed.⁴⁷⁹ Club women, labor unions, and humanitarian organizations took up the agitation. Members of the legislature were made to feel that there was a

genuine public demand for a law regulating the employment of children.

In the Thirty-first General Assembly (1906) the subject of child labor received early and large attention. The representatives of the Iowa Child Labor Committee spared no effort to secure the passage of a law, while the special interests opposed to such legislation were also well represented. Mr. Baily's bill, redrawn to meet some of the objections raised at the preceding session, was simultaneously re-introduced in both Houses on January 20, 1906, and again passed through a long and varied legislative experience.⁴⁸⁰

Mr. William S. Hart of Waukon, who had charge of the House bill, presented a substitute measure which was acceptable to the advocates of the proposed legislation, and which became the basis of the present law.⁴⁸¹ The Hart substitute was favorably reported on February 15 by the Judiciary Committee, and after receiving several amendments on the floor of the House passed that body by a vote of sixty-four to twenty-four on February 20.⁴⁸²

In the Senate, the Judiciary Committee kept the House bill for three weeks and then brought in a substitute on March 10, which with slight change was adopted three days later by a vote of forty-six to four.⁴⁸³ The House refusing to concur in the Senate substitute, a conference committee was appointed consisting of Representatives Hart, Clary, Carstensen, and Cummings, and Senators Dowell, Courtright, Whipple, and Jackson—all friends of the proposed legislation. The report of this committee was adopted in both Houses on April 2 and became a law upon the approval of the Governor.⁴⁸⁴

To recount in detail all the alterations made by the various substitutes, amendments, and reports, would be tedious and unprofitable. But for the sake of comparison the full texts of the Hart substitute and of the law as passed are given below. (Portions of the substitute bill omitted in the law are bracketed, provisions of the law not found in the Hart substitute are italicized.)

Section 1. No person under fourteen years of age [, and no person under sixteen years of age, who is less than sixty inches in height and eighty pounds in weight,] shall be employed with or without wages or compensation [,] in any mine, [quarry,] manufacturing establishment, factory, mill, shop, laundry, *slaughter house* or packing house, [or bowling alley,] or *in any store or mercantile establishment* [,] where [eight or more] *more than eight* persons are employed, or in the operation of any freight or passenger elevator.

Sec. 2. No person under [eighteen] *sixteen* years of age shall be employed at any work or occupation [,] *by* which, by reason of its nature or the place of employment, [is dangerous to life or limb, or in which] the health of such person may be injured, or his morals depraved, [;] *or at any work in which the handling or use of gun powder, dynamite or other like explosive is required,* and no female under sixteen years of age shall be employed in any capacity where the duties of such employment compel[ls] her to remain constantly standing.

Sec. 3. No person under sixteen years of age shall be employed at any of the places or in any of the occupations recited in section 1 hereof before the hour of six o'clock in the morning or after the hour of nine o'clock in the evening, and if such person is employed exceeding five hours of each day, a noon intermission of not less than thirty minutes shall be given between the hours of eleven and one o'clock, and such person shall not be employed more than ten hours in any one day, exclusive of the noon intermission, *but the provisions of this section shall not apply to persons employed in husking sheds or other places connected with canning factories where vegetables or grain are prepared for canning and in which no machinery is operated.*

[Sec. 4. No person under sixteen years of age, who cannot write legibly and read ordinary sentences in the English language, shall be employed at any of the places or in any of the employments recited in section 1 hereof when school is in session in the district where such work is performed unless there shall be filed in the office or other place of business of such employer in the place of such employment, a certificate either by the secretary of a school board, or the superintendent, principal, or other person in charge of a school, that such person has attended school not less than twelve weeks between the time of such employment and the first day of the next preceding September.]

Sec. [5] 4. Every person, firm or corporation having in its employ, at any of the places or in any of the occupations recited in section 1 of this act, any persons under [eighteen] *sixteen* years of age, shall cause to be posted at some conspicuous location at the place of [said] *such* employment, *and where same shall be accessible to inspection at all times during business hours*, a list of the names of such persons, giving after each name, *the* date of the birth of such person [, nature of employment of such person,] *and the* date when employed [, time of commencement of work and time of quitting work each day, time allowed for noon intermission and hour of commencement thereof, height and weight of such person at time of employment; and shall at the time of employment of any such person, transmit a statement containing all of the above information upon a blank furnished by commissioner of bureau of Labor Statistics, by mail, to said commissioner at his office at Des Moines].

Sec. [6.] 5. Any parent, guardian or other person, who having under his control any person under sixteen years of age causes or permits said person to work or be employed in violation of the provisions of this act, or any person making, certifying to, or causing to be made or certified to, any statement, certificate or other paper for the purpose of procuring the employment of any person in violation of the provisions of this act, or who makes, files, executes or delivers any such statement, certificate or other paper containing any false statement for the purpose of procuring the employment of any person in violation of this act, or for the purpose of concealing the violation of this act in such employment, and every person, firm or corporation, or the agent, manager, superintendent, or officer of any person, firm or corporation, whether for himself or such person, firm or corporation, either by himself or acting through any agent, foreman, superintendent or manager, who knowingly employs any person or permits any person to be employed in violation of the provisions of this act, or who shall refuse to allow any authorized officer or person to inspect any place of business under the provisions of this act, if demand is made therefor at any time during business hours [,] or who shall willfully obstruct such officer or person while making such inspection, [or who shall falsely certify to any of the facts with reference to the persons employed by such person, firm or corporation as required by this act,] or who shall fail to keep posted the lists containing the names of persons employed under

[eighteen] *sixteen* years of age and other information as required by this act, or who shall knowingly insert any false statement in such list, [or who fails to furnish the information with reference to such employment to the commissioner of the Bureau of Labor Statistics as required by this act,] or who violates any other provision of this act, shall be deemed guilty of a misdemeanor, and upon being found guilty thereof, shall be fined not to exceed one hundred dollars or be imprisoned in the county jail not to exceed thirty days.

Sec. [7.] 6. It shall be the duty of the commissioner of the Bureau of Labor Statistics to enforce the provisions of this act, and such commissioner and his deputies, factory inspectors, assistants and other persons authorized by him in writing, state mine inspectors, and county attorneys, mayors, chiefs of police and police officers, acting under their written directions, city and town marshals, sheriffs and their deputies within the territories where they exercise their official functions, and any person having authority therefor in writing from the judge of a court of record within the territory over which such judge has jurisdiction, shall have authority to visit any of the places enumerated in section 1 of this act, and make an inspection thereof to ascertain if any of the provisions of this act are violated or any person unlawfully employed thereat, and such persons shall not be interfered with or prevented from asking questions of any person found at the place being inspected by them with reference to the provisions of this act.

It shall be the duty of the county attorney to investigate all complaints made to him of the violation of this act, and to attend and prosecute at the trial of all cases for its violation upon any information that may be filed within his county.

Sec. [8] 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.⁴⁸⁵

Some of the differences between the bill and the law are so significant as to deserve discussion.

The omission of bowling alleys from the list of prohibited places of employment has nothing apparently to commend it but the wishes of interested parties. This omission was made by the House, upon the motion of Flenniken of Clayton County.⁴⁸⁶ The House also altered section two by omitting the prohibition of employment in places dangerous to life or limb,

changed eighteen to sixteen years in sections two, five, and six of the bill as reported, and struck out all of section four—the last on motion of the author of the bill.⁴⁸⁷ Mr. Hart's motive in thus emasculating his own measure appears to have been to conciliate opposition. The elided section would have encouraged school attendance by illiterates between the ages of fourteen and sixteen, but it would have been difficult of enforcement, and was not really very important. The object sought could be better secured by an extension of the compulsory education law.

Quite different was the case of stone quarries. These establishments are in Iowa usually worked near the surface, so that except as regards dust they are not especially unwholesome. On the other hand, the use of high explosives in rock blasting makes this employment particularly dangerous for young boys. Quarrymen were, however, very anxious to have their business exempted from the operation of the child labor law. While the bill was pending before the House, Representative Bealer of Linn County moved to strike "quarry" from section 1. This amendment was lost,⁴⁸⁸ but the desired omission was secured in the Senate substitute for the House bill.⁴⁸⁹ The conference committee then inserted the prohibition of the employment of persons under sixteen at any work requiring the use of explosives. This prohibition does not exclude children under sixteen from quarries or mines, but only prevents their employment in blasting operations.⁴⁹⁰

The canning industry asked and received tender treatment at the hands of the legislature. This industry is of recent introduction in Iowa and has had a phenomenal growth. The value of canned vegetables, principally corn and tomatoes, more than doubled in the five-year period 1900-1905, while the State advanced from ninth to fifth place in this branch of industry. Canned corn alone formed more than nine-tenths of the total, and in this one item Iowa was, in 1905, first among the States of the Union.⁴⁹¹ New estab-

lishments were being opened each year, many of them in places where no manufacture had before existed. It was feared that the prohibition of child labor might check the growth of the industry. Many children, some of them not over ten years old, were employed in these establishments, mostly in the husking sheds and packing rooms.⁴⁹² It was claimed on behalf of the canners that the children were not required to operate dangerous machinery or to work in unsanitary rooms, that many of them were accompanied by their mothers, and that, since most of the factories were in operation only fifty or sixty days during the months of August and September,⁴⁹³ employment therein did not interfere with school attendance.⁴⁹⁴ The advocates of the child labor law replied that the working day of the canneries is excessively long—in many cases twelve or fourteen hours—that packing rooms are not particularly wholesome, and that children under fourteen years of age are required to start to school in September.

The result of this discussion was a compromise. An amendment offered by Senator Bruce of Atlantic (a center of the canning industry) "that the provisions of this act shall not apply to children employed in the work of canning factories between the first days of July and December of each year" was rejected by the Senate.⁴⁹⁵ Later the conference committee was prevailed upon to except "husking sheds or other places where vegetables or grain are prepared for canning and in which no machinery is operated" from the provisions of section three, limiting the hours of work for children between the ages of fourteen and sixteen years in certain rooms before six o'clock in the morning or after eight o'clock in the evening and for more than ten hours per day. Since most of these establishments are not operated at night the only practical effect of the excepting clause is to permit the exaction of twelve hours labor from persons under sixteen—a doubtful benefit to the canneries and an unquestionable injury to the children.

ENFORCEMENT OF THE CHILD LABOR LAW

The Child Labor Act went into operation July 4, 1906, and the Bureau of Labor Statistics at once took steps to secure its enforcement. Several thousand copies of the law were distributed to employers, and the officers of the Bureau in their tours of the State directed the discharge of the children within the prohibited age whom they found at work and the posting of lists of employees under sixteen. These recommendations were generally complied with, most employers manifesting willingness to conform to the law. No prosecutions were undertaken during the first year, it being the policy of the Bureau to secure observation of the law so far as possible without litigation.⁴⁹⁶ This policy is still pursued, but persistent violators are now being prosecuted. Fifty-six informations were filed between the months of January and October, 1907, mostly in the larger centers of industry. Up to the last mentioned date there had been fifty-two convictions, with four cases still pending, the defendants usually pleading guilty. The fines were very light, generally one dollar for a parent and five or ten for an employer.⁴⁹⁷ Yet the prosecutions had a most wholesome effect. Employers, especially, disliking the publicity involved, became more careful about employing children of doubtful age.

Thus far the enforcement of the law has devolved upon the State Bureau of Labor, aided in some instances by the labor unions. Local police authorities, as was to be expected, have taken no action, though truant officers where they have been appointed are effective in keeping children out of factories and stores during the months to which the compulsory school law applies. Judges of the district court are authorized to appoint local inspectors,⁴⁹⁸ but so far as is known none have ever been appointed.

The writer has personally investigated the working of the child labor law in a number of centers of industry, and has sent letters of inquiry to labor leaders and others interested in all parts of the State. From these investigations and

inquiries it appears that the law is now fairly well enforced—"as well as any similar law on our statute books."⁴⁹⁹ But there are still numerous violations in the department stores, packing houses, button factories, box factories, broom works, non-union cigar shops, and in canning establishments from July to October. The canneries, supported in most places by local public opinion, openly violate the law. Mothers bring their children of all ages to the husking sheds, and any one who can strip husks from an ear of corn is allowed to work. In union establishments of all kinds, on the other hand, not only is the law strictly enforced but its requirements are commonly exceeded. The law is most thoroughly enforced in the mining industry, which is the best organized trade in the State. It is doubtful whether boys under fourteen years old could be found in any coal mine in Iowa. Very few are allowed to work in the mines who are below the age of sixteen.

DEFECTS OF THE PRESENT LAW

First. The State Bureau of Labor has been greatly hampered in its efforts to enforce the law by the difficulty of securing proof of violation. No evidence of the child's age is now required beyond the unsupported statement of the parent. Parents are often insistent on putting their children to work, and employers, even when well disposed toward the law, are easily deceived. The writer's observations, as well as extensive inquiries, lead him to believe that falsification is common.⁵⁰⁰ To hunt out every suspected case and test the parents' statement by comparison with the public records is, with the limited field force of the Bureau, altogether out of the question. Age certificates ought to be issued by public authority and only upon positive proof of age, as by production of the certificate or register of birth or baptism, the school census, or other official record. Such a provision based upon the experience of other States, formed a part of the original Baily bill,⁵⁰¹ but was omitted in Mr. Hart's substitute because of the opposition it had before excited. The

Commissioner of the Iowa Bureau of Labor Statistics has asked that the present law be amended so as to place upon the employer and the parent the burden of proving the age of a suspected child.⁵⁰² Such an amendment would add much to the efficiency of the law.

Second. The present law is not inclusive enough. The reasons for forbidding children to work in factories and stores are equally applicable to their employment in offices, hotels, and public restaurants, and in the express, delivery, and messenger service. The hours exacted in all these employments are often unreasonably long. Some of them necessarily involve exposure to the inclemencies of the weather; and the driving of a team on city streets, where that is allowed, may fairly be described as dangerous for a boy under fourteen. But the peril to the morals of children is much greater in all these occupations than the danger to their health. The average business office or hotel lobby is certainly no fit place for a young child. Even worse are the influences of the street to which messenger and delivery boys are constantly exposed. Worst of all, the messengers of the Western Union and Postal Telegraph companies are frequently sent to the red light districts where they make the acquaintance of prostitutes and are petted by them and given presents of fruit and candy.⁵⁰³

Third. The moral objections to child labor apply with even greater force to bowling-alleys, theatres, circuses, and other places of public amusement. The law does, to be sure, forbid the employment of persons under sixteen in any place where their health may be injured or their morals depraved. But this provision is too vague to be of much practical value. At all events, children under fourteen are still employed as pin boys, ballet singers, and acrobatic performers—all of which occupations directly tend to “deprave the morals” if not to “injure the health” of the child. There ought to be a specific enumeration of objectionable employments.

Fourth. There is likewise need for some regulation of the street trades. Scores of newsboys, bootblacks, and street

venders in our large towns are under the age of twelve years, and not a few are under ten.⁵⁰⁴ Sometimes a much younger child is employed as a decoy by an older brother. Taking his stand a little way down the street, where his partner shall not be visible, the tot accosts the passer-by with "Please, mister, buy a paper." The pathetic appeal of the tiny voice seldom fails of the desired effect.

Both the health and morals of very young children are menaced by permitting them to engage in street-vending. From September to June those who are under fourteen are mostly employed out of school hours. Beginning work at four in the afternoon, they frequently do not reach home until nine o'clock or even later—long past dark in the winter season. If they handle morning papers as well they must be out before daylight. Think of an eleven year old child spending thirty hours a week in school and perhaps thirty or forty hours mornings, evenings, and Saturdays selling papers.⁵⁰⁵ Add to this the cold fingers and wet feet often unavoidable in our climate, not to mention the danger from passing vehicles, and it will be seen that the trade of a newsboy is not exactly conducive to longevity. The moral injury comes from premature contact with vice in its most glittering forms, from improper association with older children, and from the contraction of habits easily formed but difficult to eradicate. "Sleep-outs" or semi-vagrants, "gangs", juvenile offenders of every class, are largely recruited from the street trades.⁵⁰⁶

On behalf of unregulated street vending we meet the same old arguments with which we are already familiar—the necessities of business, the needs of the parents, the valuable training acquired by the child. In reply to the first of these arguments, it may be said that it has never been shown that newspapers cannot be cheaply and effectually distributed without being sold by young children. The plea from family necessity will not bear examination. A very large proportion of the juvenile street-venders come from comfortable homes—homes where the father's income is ample for the support of the

family. The earnings of children under fourteen are far more often spent as pocket money than contributed to the family exchequer.⁵⁰⁷ Finally, the license and the irregularity of the street do not constitute a valuable preparation for life. The newsboy does, indeed, acquire a worldly wisdom far beyond his years. But most of this knowledge he would be better off without, and the premature forcing of his intelligence too often results in premature exhaustion. It is the familiar story of precocity. As to industrial training, few of the street trades are suitable for a permanent occupation. Neither the newsboy nor the bootblack has many opportunities to form valuable business connections. To be sure, certain individuals have laid the foundations of a successful career while in these very callings; but while such instances are widely advertised, little is said of the far larger number of street children who have gone to the reform school or the penitentiary.⁵⁰⁸

Fifth. Fourteen years is too low an age limit for most of the employments fairly within the scope of restrictive legislation. The child at fourteen is neither physiologically nor morally fitted to be a bread winner. His body is too immature, his character too plastic, to be safely subjected to the rude buffeting of the world. The period of education ought to extend to sixteen at the lowest, leaving to adults the business of earning a livelihood.

If any one doubts the necessity of further restricting child labor in Iowa, let him take his stand some morning shortly before seven o'clock at the corner of Fifth and Mulberry streets in the city of Muscatine. Here for half an hour the streams of factory hands converge from four sides and are swallowed up in the neighboring button mills. Among them come scores of grammar school children, carrying their dinner pails, but without the satchel and shining morning face. For many of these children have been three or four years in the button factories and their pale faces, slouching gait, and underdeveloped bodies, tell all too sadly the story of deterioration. That we allow these boys and girls, everyone of whom ought

to be in school, to toil ten mortal hours in the dust-and-germ-laden air of a finishing or grinding room, feeding tireless machines, shortening their lives and impairing the vitality of a future generation, is a reproach to our Commonwealth.

CONCLUSION

Iowa already has in the system of juvenile courts, the charitable and correctional institutions, and the compulsory education and child labor laws a respectable body of legislation for the benefit of neglected, dependent, and delinquent children. Certainly the State is in a better situation as regards child problems than any of the more populous Commonwealths. But the people of Iowa have no reason to feel satisfied with present conditions. There is still very much for them to do in the way of enforcing school attendance, stopping the numerous gaps in the present child labor law, raising the age limit for forbidden employments, and extending protection to children now legally engaged in occupations no less objectionable. The friends of childhood—and they are the friends of society—should regard existing legislation as only a beginning. They should never cease their efforts until they have placed Iowa on a plane with the most advanced States in her public provision for the welfare of her children.

VIII

THE LAW OF EMPLOYERS' LIABILITY

INTRODUCTORY

No general employer's liability law has ever been enacted in Iowa. Here the rules of the Common Law prevail, except in so far as these have been modified in certain respects by statute. Accordingly, an attempt will be made in this chapter to state the leading principles of the Common Law of employer's liability as gathered from court decisions and to show how far these doctrines have been affected by legislation.

The first employers' liability case to reach the Supreme Court of Iowa was that of *Sullivan vs. The Mississippi and Missouri River Railroad Company* (11 Iowa, 421), which came up for determination in 1860. The earliest cases of like character in England and America had only been decided about a score of years before.⁵⁰⁹ But such cases had multiplied very rapidly with the growth of the modern industrial system, so that a great body of decisions had come into existence before 1860, and the broad doctrines of the law of employer's liability were already well established. Those doctrines were adopted as a matter of course by the Iowa court, and the subsequent development of the law in this State has very naturally been largely influenced by its course elsewhere. It is well known, however, that there is great diversity of views upon this branch of the law among the various Anglo-American jurisdictions. Iowa has her own line of decisions, as well as her own liability statutes, and some rules are recognized by her courts which have not found general acceptance. Moreover, while the literature dealing with employers' liability is very voluminous, the law of any one State has seldom, if ever, been systematically worked out. For these reasons the sub-

ject is here treated more in detail than would otherwise be necessary or allowable in a work of this character. No attempt has been made, however, to collate all the decisions, and only such cases are cited as appear to be most apt for the purposes of illustration.

The right of a servant to recover from his master for injuries received in the course of his employment rests upon the principle of negligence; the master owes certain duties to his employees, and for any breach of these he is answerable in civil damages. It will be well, therefore, to preface the discussion of the law of employers' liability with a brief summary of the law of negligence, of which the former is a particular application.

NEGLIGENCE IN GENERAL

Negligence consists in doing, or omitting to do, something which a person of ordinary prudence would not have done or omitted under like circumstances.⁵¹⁰ It is not every reckless or careless act, however, which constitutes actionable negligence. There must be a breach of some duty, imposed by law, owing to the party injured from him who was guilty of the negligent act.⁵¹¹ Again, there is no ground of action unless the negligent act complained of was the proximate cause of the injury for which recovery is sought;⁵¹² that is, unless the original negligent act in a natural and continuous sequence, unbroken by any new cause, would have produced the injury, and unless without it the injury would not have occurred.⁵¹³ Lastly, there can be no recovery for any injury to which the person injured in any degree proximately contributed by his own want of ordinary care.⁵¹⁴ The doctrine of comparative negligence is not recognized in Iowa,⁵¹⁵ it being said that the law will not undertake to determine which of two wrongdoers is most at fault.⁵¹⁶ But the contributory negligence of the person injured will not defeat his recovery unless it is an efficient and proximate cause of his injury.⁵¹⁷ Nor is the contributory negligence of the injured party a bar to recovery where the other party to the accident becomes aware of such

negligence in time to enable him to avoid the injury by the exercise of ordinary care⁵¹⁸ (doctrine of last clear chance).

In an action to recover damages for an injury negligently caused, the plaintiff has the burden of proof to show not only that the injury was the proximate result of the defendant's negligence, but that he was himself exercising due care at the time of the injury.⁵¹⁹ It is not always necessary, however, to prove the absence of contributory negligence by direct and positive testimony.⁵²⁰ The fact of due care may sometimes be inferred from the circumstances,⁵²¹ or from the instinct of self-preservation.⁵²² Thus, in case of an injury causing death, it may be presumed, until the contrary appears, that the deceased, prompted by his natural instinct, exercised such care for his safety as was required under the circumstances.⁵²³ But the presumption arising from the instinct of self-preservation only obtains in the absence of direct evidence as to the care exercised by the person injured at the time of the injury.⁵²⁴

Both the negligence of the defendant and the contributory negligence of the plaintiff are ordinarily mixed questions of law and fact.⁵²⁵ The issues of fact should be submitted to the jury, under proper instructions from the court, whenever there is conflicting testimony⁵²⁶ or whenever reasonable men may honestly differ as to the conclusions to be drawn from the undisputed facts in the case.⁵²⁷

RELATION OF MASTER AND SERVANT

The relation of master and servant, or of employer and employed, arises where one person contracts with another for his services, becoming directly responsible to him for his compensation and obtaining authority to direct the performance of his work.⁵²⁸ Where no such contract exists there is, of course, no employer's liability.⁵²⁹ The contract need not be express, but may be implied from acceptance of the service, as where a servant, with the master's knowledge, employs a substitute.⁵³⁰ On the other hand, a servant who voluntarily undertakes a task outside the scope of his employment, or

who goes into an unauthorized place of danger, becomes a mere volunteer, or a trespasser, to whom the master owes no duty of protection until his peril is discovered.⁵³¹ But a servant is within the scope of his employment in engaging in work which he customarily performs with the knowledge, actual or constructive, of the master or his representative, though without express authorization.⁵³² An independent contractor, that is, one who undertakes to do a piece of work according to his own methods, and without being subject to the control of his employer, except as to the results of his work,⁵³³ is not a servant, and the master is not liable for his negligence.⁵³⁴

THE DUTIES OF EMPLOYERS

DEGREE OF CARE

The master is not an insurer of his employees,⁵³⁵ but he is bound to use reasonable care for their safety while they are engaged at their work.⁵³⁶ An employer cannot be held to the exercise of anything more than ordinary care on behalf of his employees,⁵³⁷ that is, such care as a person of average prudence would exercise under the like or similar circumstances.⁵³⁸ But ordinary care is itself no fixed and unalterable standard,⁵³⁹ but is to be measured by the character of the business and the risks attending its prosecution.⁵⁴⁰ Thus in handling electricity, or in exposing men to its currents, reasonable care is great care.⁵⁴¹ So, too, it is negligence to run a railway train at high speed where the road-bed has been softened by recent rains, although such speed would not be dangerous under normal conditions.⁵⁴²

MASTER'S KNOWLEDGE OF DANGEROUS CONDITION

An employer is not bound to foresee and guard against every possible contingency, but only against such as are likely to occur.⁵⁴³ Unless he has knowledge, actual or constructive, of the existence of a dangerous condition he is not liable for an injury arising therefrom.⁵⁴⁴ But knowledge will be presumed whenever the dangerous condition has existed for such

a length of time that the employer, in the exercise of ordinary care, could have discovered it.⁵⁴⁵

GENERAL USAGE AS A STANDARD OF CARE

The general usage of employers in the same line of business, and in the same vicinity, may be shown as bearing upon the question of ordinary care.⁵⁴⁶ Common usage, however, is not in Iowa conclusive proof of care and is of no avail as a defense where the custom is in itself negligent.⁵⁴⁷

STATUTORY REQUIREMENTS AS A STANDARD OF CARE

The violation of an express statutory requirement is negligence *per se*;⁵⁴⁸ any injury caused by such violation is the subject of an action, and it is sufficient to allege the violation of the law as the basis of the right to recover and as constituting the negligence complained of.⁵⁴⁹ Thus it is negligence to operate railway cars not equipped in accordance with the automatic coupler law,⁵⁵⁰ to leave dangerous machinery unguarded in violation of the factory acts,⁵⁵¹ to supply a less amount of air in a coal mine than is required by law,⁵⁵² or to operate trains at an illegal rate of speed.⁵⁵³ Violation of law does not, however, give an absolute right of recovery but only establishes the fact of negligence.⁵⁵⁴

SPECIFIC DUTIES OF THE MASTER

The master's duty not to expose his employees to unnecessary dangers requires him to provide reasonably safe instrumentalities for carrying on his business, and to see that these are used in a reasonably safe manner. Under the first of these heads belong the duties to furnish a safe place to work, to provide safe and suitable tools and appliances, and to hire competent servants. The second general category of the master's duties includes his obligations to conduct his business upon a safe system, to warn servants of dangers not known to them, and to instruct them where necessary as to the proper performance of their duties.

DUTY TO PROVIDE SAFE PLACE TO WORK.

It is the duty of an employer to use reasonable care to provide his employees a safe place to work.⁵⁵⁵ The master's duty is sometimes stated more broadly, as when it is said that he must furnish a "safe place"⁵⁵⁶ or "a reasonably safe place".⁵⁵⁷ But these expressions mean no more than that the employer is bound to use ordinary care to provide such a place. A place is "safe" within the meaning of the law when it has been furnished and equipped with reasonable care. The law only requires that those safeguards and precautions which ordinary experience, prudence, and foresight suggest shall be taken to prevent injury to the employee while he is himself exercising reasonable care in the service which he undertakes to perform.⁵⁵⁸

The obligation of the employer to furnish a safe place to work is a continuing one;⁵⁵⁹ it is his duty not only to make the working place reasonably safe to begin with, but to exercise ordinary care in so keeping it.⁵⁶⁰ Ordinary care involves the duty of inspection where the place of employment is likely to become unsafe by the lapse of time.⁵⁶¹ But where the place is rendered unsafe by the progress of the work, the master is relieved from liability as to servants engaged in such work.⁵⁶² Nor does the doctrine that the master must provide a safe place to work apply where the servant seeking recovery is himself responsible for the creation and care of the place where he works, as in the case of a coal miner's "room".⁵⁶³

DUTY TO PROVIDE SAFE MACHINERY AND APPLIANCES

It is the duty of the master to make reasonable efforts to furnish his servants with suitable and safe appliances for the performance of the duties assigned to them.⁵⁶⁴ He does not warrant the safety of tools and machinery any more than of the place to work;⁵⁶⁵ nor is he bound to furnish appliances such that accidents will be impossible⁵⁶⁶—it is sufficient if he provides those which in the exercise of due care can be used with reasonable safety.⁵⁶⁷

An employer is not bound to use the best appliances which can be obtained, nor is he bound to adopt any new device until its utility has been sufficiently tested and it has been shown to be as a whole better than the appliance already in use for the same purpose.⁵⁶⁸ Thus, it has been held that in the absence of statutory requirement a railway company is not necessarily guilty of negligence in failing to equip its locomotive engines with automatic couplers.⁵⁶⁹ So, too, an employer is not negligent in failing to guard certain machinery when it is not usual to guard similar machinery.⁵⁷⁰ But where a safety appliance is in common use a jury may find that the master is wanting in ordinary care in not adopting it or some other appliance equally safe.⁵⁷¹

DUTY OF INSPECTION

We have already seen that where a master furnishes his servant a place to work he is bound to use reasonable care to keep it in safe repair. The same rule holds of appliances furnished for the servant's use.⁵⁷² As regards new machinery, the employer is presumed to have notice of any defects which existed at the time when it was put in use.⁵⁷³ Moreover, he is bound to know that appliances originally safe are liable to get out of order while in use, and he is chargeable with knowledge of any defects which he could have discovered by ordinary care and watchfulness.⁵⁷⁴ "It will not do to say that, having furnished suitable and proper machinery and appliances, the [railway] corporation can thereafter remain passive. The duty of inspection is affirmative, and must be continuously fulfilled, and positively performed."⁵⁷⁵ Mere frequency of inspection is not sufficient; there must also be proper care in the performance of the duty.⁵⁷⁶ Inspection by a public authority does not relieve the master of his own duty in discovering and repairing defects, and the failure of an official inspector to discover a defect in a particular appliance which he is not shown to have inspected, is not proof of the absence of such defect.⁵⁷⁷

DUTY TO HIRE COMPETENT SERVANTS

The master must furnish a sufficient number of competent servants for carrying on his business with reasonable safety.⁵⁷⁸ It is his duty to exercise care in the selection of employees,⁵⁷⁹ and he is chargeable with knowledge of the incompetence of a servant when he should in the exercise of ordinary care have known of such incompetence.⁵⁸⁰ The employer's knowledge of the servant's incompetence may be inferred from the prior conduct of the latter, but a single act of casual neglect on the part of the employee does not prove him incompetent,⁵⁸¹ nor does a servant's carelessness at the time the injury complained of was received show want of due care in employing him.⁵⁸²

DUTY TO CONDUCT BUSINESS UPON SAFE SYSTEM

The employer's duty to conduct his business upon a reasonably safe system includes the duty of providing sufficient and necessary rules for the guidance of employees.⁵⁸³

DUTY TO WARN AND INSTRUCT

The master is required to instruct an employee in the performance of a service attended with a danger of injury which is not known to or appreciated by the employee,⁵⁸⁴ and to warn him of dangers which are, or should be, in the exercise of reasonable care known to the master but which the servant does not know of or does not appreciate.⁵⁸⁵ But the master is not bound to instruct an experienced employee, nor to point out dangers known to the employee,⁵⁸⁶ or which are so open and obvious that by the exercise of ordinary care the servant could discover them.⁵⁸⁷

THE EMPLOYER'S DEFENSES

It follows from the very definition of employers' liability that, unless the master is remiss in the performance of some of the duties just discussed, the servant will have no ground of action against him. For without breach of duty there is no negligence, and without negligence there is no liability. But even where an injury is proximately caused by the negli-

gence of the master the latter may still be able to escape liability by setting up one or more of the defenses open to him. These defenses as here treated are three in number: contributory negligence, assumption of risk, and the fellow servant rule. Logically, of course, the third is not a separate defense at all, but a phase of the second. For the negligence of co-employees is one of the risks assumed by the servant when he enters his master's employ. But the precise relationship of the two defenses is not very significant and is seldom adverted to by the courts, while the fellow servant rule is so important in itself and is subject to so many qualifications that a separate treatment is convenient if not necessary. Logically, again, there is another defense expressed by the maxim, *Volenti non fit injuria*. But the distinction between this maxim and the doctrine of assumption of risk has not been clearly drawn by the Iowa courts. Indeed, it would hardly be too much to say that the maxim is not recognized in this State as a separate defense in employer's liability cases. Certainly it calls for no separate consideration here.

CONTRIBUTORY NEGLIGENCE

In strictness, contributory negligence is not a defense. Its absence is a matter to be pleaded and proven to justify a recovery.⁵⁸⁸ The defendant, however, will usually seek to show contributory negligence on the part of the plaintiff by way of rebuttal. The plea may, therefore, be treated as a defense, though the burden of proof rests upon the plaintiff to show his freedom from contributory negligence and not upon the defendant to show the fact of such negligence.

As applied to the relation of master and servant, the doctrine of contributory negligence presents two aspects. First, a servant may be guilty of contributory negligence so as to preclude recovery in continuing to work under conditions which he knows, or ought to know, to be abnormally dangerous. Second, a servant cannot recover for an injury to which his own want of due care at the time contributed as an efficient cause. In Iowa, however, the conception of contributory neg-

ligence in continuing at work is merged with that of contractual assumption of risk.⁵⁸⁹ It only remains, therefore, to discuss the question of the servant's negligence at the time of the injury.

A master is entitled, in the conduct of his business, to act upon the presumption that his employees will themselves use ordinary care in the discharge of their respective duties.⁵⁹⁰ A servant, on the other hand, cannot be held to any higher degree of care than that defined as reasonable or ordinary,⁵⁹¹ though what conduct is reasonable will, of course, depend upon the particular circumstances surrounding each case.⁵⁹²

Contributory negligence is, of course, not predicable unless the employee was, or ought to have been aware of the conditions which caused his injury,⁵⁹³ and appreciated the dangers created by those conditions.⁵⁹⁴ Knowledge of a dangerous condition will be imputed to an employee when he could have discovered the same by the use of ordinary care.⁵⁹⁵ Whether or not he can be held to have appreciated the danger thereby occasioned may depend upon the age and experience of the employee,⁵⁹⁶ his opportunities for observation,⁵⁹⁷ and other circumstances existing at the time of the injury.⁵⁹⁸

It has been seen that contributory negligence is not to be predicated as a matter of law unless it is a necessary inference from undisputed facts. Some typical cases which have been held to present such a necessary inference are discussed below.

Violation of law is negligence *per se*,⁵⁹⁹ and where such violation by the party injured contributed to the injury complained of, he cannot recover. But if the violation of law was a mere condition, and not a proximate cause of the injury, it will not defeat recovery.⁶⁰⁰

The needless violation of a known rule of the employer intended for the safety of his employees is contributory negligence, if it is an efficient cause of the injury.⁶⁰¹ Of course, a breach of the rules will not defeat recovery where it was not the proximate cause of the injury,⁶⁰² nor where the breach was justified by the circumstances.⁶⁰³ Nor can an employer

escape responsibility by showing the violation of a rule which is habitually disregarded with his apparent acquiescence.⁶⁰⁴

It is not necessarily negligent to adopt the more dangerous of two available courses of action. The question is ordinarily one of fact, to be determined according to the circumstances of the case, the reasons for doing what was done, and the care used to avoid danger.⁶⁰⁵ But to choose a reckless or needlessly dangerous method of accomplishing an object is negligence as a matter of law.⁶⁰⁶ Thus, a brakeman is not always guilty of contributory negligence, as a matter of law, in going between cars while in motion to couple or to uncouple them.⁶⁰⁷ Nor is a servant necessarily negligent in failing to use a safety appliance provided by the employer,⁶⁰⁸ though it is negligent to ignore such an appliance where it can reasonably be used.⁶⁰⁹

Other illustrations of negligent conduct are: failure to use appropriate precautions in a dangerous situation;⁶¹⁰ exposure to dangers created by permanent conditions or structures which the employee is bound to know of;⁶¹¹ going into or remaining in an unauthorized and dangerous position;⁶¹² creating or assisting to create the conditions from which the injury results;⁶¹³ or going into a dangerous place without notifying persons from whose acts danger may reasonably be anticipated.⁶¹⁴ The variety of possible negligent acts is, of course, limitless. The concrete instances above enumerated are perhaps sufficient for purposes of illustration.

The inference arising from a particular course of conduct may be negated by a variety of circumstances. Among these are: the youth or inexperience of the employee;⁶¹⁵ the need of performing a duty in haste;⁶¹⁶ conditions of imminent peril or necessity under which an act is performed;⁶¹⁷ or the engrossment of the employee's attention by the duties in which he is engaged.⁶¹⁸ The fact that a particular act is usual or customary tends to rebut a presumption of negligence,⁶¹⁹ unless the custom in itself is negligent.⁶²⁰ A servant is ordinarily entitled, until the contrary appears, to rely upon the presumption that his co-employees will use reasonable care in

the performance of their several duties, and he will not be guilty of negligence in omitting precautions which he might have used but for such presumption.⁶²¹

ASSUMPTION OF RISKS

We have seen that the doctrine of contributory negligence applies in all cases in which damages are sought for injuries due to the negligence of another. The doctrine of the assumption of risk is restricted to suits of servants against their masters; but within that sphere it is a far-reaching bar to recovery. That doctrine is that when a servant enters the employment of a master, he takes upon himself the ordinary risks incident to the employment in which he is engaged, and also such other risks as he may be held to know of and appreciate.⁶²² It has been asserted that the assumption of risk is implied by law from the relationship of master and servant.⁶²³ More usually, however, it is regarded as an implied term of the contract of employment.⁶²⁴

The risks assumed by servants are of two kinds: those incident to the business as it is usually carried on; and those primarily due to the negligence of the master. The former are commonly spoken of as ordinary and the latter as extraordinary risks. Assumption by the servant of these two classes of risks is placed upon somewhat different grounds, and is governed by different rules of proof; though such assumption, when once established, is equally fatal to recovery in either case. We shall first consider the assumption of ordinary risks.

ORDINARY RISKS

When a servant enters the employment of a master he takes upon himself such danger and exposure to injury as is naturally incident to or connected with the service in which he engages after the master has fulfilled his duty to take reasonable care for the safety of his employees.⁶²⁵ Risks thus arising are not due to the employer's negligence; hence an injury resulting therefrom affords no cause of action. The

assumption of these risks inheres in the contract of employment, or in the relation of master and servant, and need not be pleaded as a defense.⁶²⁶

Knowledge and appreciation of danger are essential elements in the assumption of risk.⁶²⁷ But as respects the ordinary risks of an employment, knowledge and appreciation may be presumed from the fact of undertaking the service. For one who enters a certain employment impliedly represents that he has the experience to perform properly the duties of his position and that he knows the obvious dangers attending the employment in which he engages.⁶²⁸ The age and experience of an employee are, however, to be considered in determining whether he comprehended and so assumed a particular risk.⁶²⁹

Since the risks ordinarily incident to an employment are usually held to be assumed by the servant as a matter of law, and as to them the master is relieved of all responsibility, the determination of what risks are to be deemed ordinary becomes a matter of great importance. The question may be approached from either of two directions: the care required of the master, and the knowledge imputed to the servant. On the one hand, ordinary risks are defined as those which reasonable care on the part of the employer cannot guard against.⁶³⁰ On the other hand, the servant is said to assume the risks which a reasonably prudent and careful man would expect to encounter in the course of his employment.⁶³¹ But, in either view, the servant assumes only those risks which are incident to the business when conducted in a reasonably prudent and careful manner,⁶³² unless he has knowledge, actual or implied, that it is not so conducted.⁶³³

The ordinary risks of an employment always include those which are inherent in the nature of the business.⁶³⁴ One who engages in an extra-hazardous employment thus takes upon himself the ordinary perils incident thereto.⁶³⁵

Every person in undertaking to work agrees to labor in the situation and with the tools provided, in so far as the con-

dition of these is apparent or may be ascertained by the exercise of ordinary diligence.⁶³⁶ All open and obvious dangers are, accordingly, to be considered as risks incident to the employment,⁶³⁷ whether such dangers result from the character of the instrumentalities used,⁶³⁸ or from the conditions, whether permanent⁶³⁹ or temporary,⁶⁴⁰ under which the business is openly conducted.

The rule governing the assumption of risk is the same in works of construction and repair as in any other employment, though the risks assumed may be greater because of the hazardous character of such work.⁶⁴¹ Thus, one employed to make a dangerous place safe cannot recover for injuries received by reason of the very danger which he undertakes to remove, since that is a danger incident to his employment.⁶⁴² So, too, a servant assumes any risk of injury created by the progress of the work in which he is engaged.⁶⁴³ If, for example, he is employed to tear down an old building,⁶⁴⁴ the risk of injury from the falling of the overhanging material is his own. But in all of these cases the servant assumes only those risks which are naturally incident to the employment, while the master's duty not to expose him to any injury which may reasonably be anticipated and guarded against remains unimpaired.⁶⁴⁷

EXTRAORDINARY RISKS

"A servant is *prima facie* not chargeable with an assumption of extraordinary risks—risks, that is to say, which may be obviated by the exercise of reasonable care on the master's part."⁶⁴⁸ But if an extraordinary risk is actually or constructively known to and comprehended by the employee, and he notwithstanding elects to remain in the service, he assumes the risk and waives the right to recover for injuries caused thereby.⁶⁴⁹ The servant's inability to recover is placed upon the ground of the maxim, *Volenti non fit injuria*;⁶⁵⁰ having voluntarily incurred the danger, he cannot complain of the injury.⁶⁵¹ The assumption of an extraordinary risk is, then, to be inferred not from the contract of employment, but from

voluntary continuance in the service after the risk is known and appreciated.⁶⁵²

Assumption of risks arising from negligence of the master is an affirmative defense, which must be pleaded in answer and sustained by a preponderance of the evidence.⁶⁵³ The question whether or not a particular risk has been assumed is ordinarily for the jury.⁶⁵⁴

A risk not ordinarily incident to the employment in which he is engaged is not assumed by an employee unless he had notice of its existence.⁶⁵⁵ Actual knowledge, however, need not be shown, since every person is held to know what in the exercise of ordinary care he ought to know.⁶⁵⁶ It is the duty of an employee to use reasonable care and prudence to discover the open and obvious dangers around him,⁶⁵⁷ and he is chargeable with knowledge of any danger which it would have been possible to discover by the exercise of such care as persons of ordinary intelligence may be expected to take for their own safety.⁶⁵⁸ However he is not required to inspect or search for obscure dangers or defects in his place of work, or in the machinery or appliances which are furnished to him.⁶⁵⁹

Mere knowledge of a dangerous condition will not charge an employee with assumption of risk therefrom.⁶⁶⁰ It must further appear that he appreciated, as a reasonably prudent man should appreciate, the danger to himself resulting from the abnormal condition.⁶⁶¹

Whether an employee is chargeable with knowledge and appreciation of a particular risk will depend upon various circumstances: the employee's age and experience;⁶⁶² his opportunities for acquaintance with his surroundings;⁶⁶³ the means of information at his command;⁶⁶⁴ and the obviousness of the danger to which he is exposed.

A minor servant is not, as a matter of law, incapable of assenting to and assuming the risk of a hazard created by the negligence of his master.⁶⁶⁵ But the age and experience of the servant are always important considerations in deter-

mining whether he knows or ought to know and appreciate the peril to which he is exposed.⁶⁶⁶

An employee is chargeable with knowledge and appreciation of all dangers which are open and obvious,⁶⁶⁷ that is to say, discoverable by the exercise of reasonable care.⁶⁶⁸ A bridge above a railway track too low to be cleared by a brakeman standing on the top of a box car,⁶⁶⁹ a projecting girder in an elevator shaft,⁶⁷⁰ or a coal chute in close proximity to a railroad track⁶⁷¹ presents dangers which must be patent to any person of ordinary intelligence. But where the risk is not apparent it is not assumed unless there are circumstances showing that it should have been understood and appreciated.⁶⁷²

Assumption of risk relieves the master of all liability under the common law. Recovery is thus barred for failure to provide a safe place to work⁶⁷³ or safe machinery and appliances,⁶⁷⁴ to hire competent servants,⁶⁷⁵ or to conduct the business on a safe system.⁶⁷⁶

The defense of assumption of risk is equally available against a violation of statutory law, at least as respects statutes not enacted primarily for the protection of employees.⁶⁷⁷ But under the factory acts forbidding the employment of children in the operation of machinery it has been held that children within the prohibited age limit are presumptively incapable of appreciating the danger attendant upon such employment.⁶⁷⁸ "Public policy", it was said, "would seem to demand that the statute which undertakes to protect children against the hazard to which the recklessness and inexperience of childhood expose them shall not be defeated of its purpose by pleading that same childish recklessness or ignorance as a reason for exempting an employer from responsibility for his wrong." The defense of assumption of risk is not, however, abrogated by these decisions. It still remains open for the employer to show affirmatively that the servant, notwithstanding his youth, possesses sufficient knowledge and experience to appreciate the risk to which he is exposed.⁶⁷⁹

Knowledge and appreciation of a danger created by the master's negligence does not in every case charge an employee with assumption of the risk, nor with contributory negligence in continuing at work. But where it appears that the servant knew and appreciated the danger which caused his injury, it is incumbent upon him to show that he was in some manner justified in exposing himself thereto.⁶⁸⁰ Such justification may arise from several circumstances.

In the first place, an employee does not assume a risk of which he only becomes aware at the moment of his injury. No one is properly chargeable with knowledge of a peril unless in the exercise of reasonable care he might have become aware of it sufficiently in advance to enable him to protect himself therefrom.⁶⁸⁷ Moreover, it would be unreasonable to require an employee to abandon his master's service the instant he discovers a dangerous condition. He may wait a reasonable time to see whether, upon complaint, the danger will be removed; and during such time he is not chargeable with assumption of risk.⁶⁸²

It has been said, in at least one case, that a servant does not assume the risk of any defects in the things about which he is employed unless, knowing the defects, he remains in the employment of his master without objection or protest against their continuance.⁶⁸³ Protest is here apparently treated as evidence of non-consent, and so as inconsistent with the theory of voluntary assumption of risk. But so merciful a view, if ever really entertained, has not been adopted. It is now settled that complaint of a defect, without a promise of remedy, will not relieve the employee of assumption of the risk if he continues in the service.⁶⁸⁴

A different rule obtains where the employee continues at work in reliance upon the master's assurance that a dangerous condition will be remedied. The employee's assumption of the risk arising from the condition promised to be remedied is suspended, *eo instante*, by such a promise, and his right of recovery remains intact so long as he may reasonably expect

the promise to be fulfilled.⁶⁸⁵ The master's promise need not be express: it is sufficient if the servant has a right to believe that the defect will be remedied.⁶⁸⁶ Nor need the promise be made by the master himself, since he is bound by the act of one having authority in such matters.⁶⁸⁷

A servant may be justified by express command of the master or his representative in doing an act from which danger may reasonably be apprehended.⁶⁸⁸ This rule is especially applicable to employments like railroading in which due subordination and prompt obedience to orders are indispensable to the safety of life and property. But in order to justify a particular act the order must be specific,⁶⁸⁹ while even an express command will not excuse an employee in incurring an unnecessary danger which is apparent to him.⁶⁹⁰

A principle somewhat analogous to that just stated is, that a servant is entitled to place some reliance upon the assurance of his superior, who is presumably better informed than himself, that an appliance is safe or that an act may be safely done.⁶⁹¹ Either an express command or an assurance of safety tends to negative both contributory negligence and assumption of risk, since the one implies a want of voluntary action and the other shows excusable ignorance of the danger to be incurred.

We have seen that an act which would otherwise be contributory negligence may be excusable where the employee's attention is necessarily engrossed by the performance of duty so that a known danger is absent from his mind, or where an emergency exists requiring prompt action. It is clear, however, that circumstances such as these cannot, in a logical point of view, be held to negative a contractual assumption of risk. For when a risk has been assumed, the master's negligence with respect thereto is waived, and this waiver can not be affected by the particular situation in which the employee may be placed, or the rapidity and promptness with which he may be required to act at the time of the accident.⁶⁹² Such is undoubtedly the general rule as recognized in this

and other States.⁶⁹³ A more merciful doctrine appears to be announced in *Strong vs. Iowa Central Railroad Company* (94 Iowa, 380). In that case a brakeman adopted a dangerous but speedy mode of making a coupling in order to clear the main track for a passenger train which was almost due. It was held that under the circumstances he did not waive his right of action. But since the brakeman's right to recover in this case was based in part upon the fact that he acted under the orders of the engineer, the precise bearing of the dictum just referred to is not easy to determine.

STATUTORY MODIFICATION OF ASSUMPTION OF RISK

The rule which makes employees remediless against even the gross negligence of their employer, if only that negligence is habitual and notorious, is so oppressive to workingmen that organized labor has, not unnaturally, long sought to secure its abrogation. The courts having shown little disposition to modify the Common Law in this respect, the labor unionists appealed to the legislature. Their first success was won in 1890, when the defense of assumption of risk was abolished as against violations of the automatic coupler and brake law enacted in that year.⁶⁹⁴ They had to wait half a generation before they gained strength enough to carry a second outwork in the employer's fortress. A bill which would have enabled employees to relieve themselves of the assumption of extraordinary risks by notifying the master of defects in ways, works, or machinery was introduced at the legislative session of 1906;⁶⁹⁵ but was defeated by the combined opposition of manufacturers and railways.⁶⁹⁶ But at the next meeting of the General Assembly, the Iowa Federation of Labor and the State Manufacturers' Association agreed upon a compromise measure which became law.⁶⁹⁷ The assumption of risk act of 1907 is as follows:

In all cases where the property, works, machinery or appliances of an employer are defective or out of repair and the employe has knowledge thereof, and has given written notice to the employer, or to any person authorized to receive and accept such notice, or to any

person in the service of the employer and entrusted by him with the duty of seeing that the property, works, machinery or appliances are in proper condition, of the particular defect or want of repair or when the employer or such other person has been notified in writing of such defect or want of repair by any person whose duty it is under the rules of the employer or the laws of the state to inspect such works, machinery or appliances, or any person who is subject to the risk incident to such defect or want of repair; no employe after such notice, shall by reason of remaining in the employment with such knowledge, be deemed to have assumed the risk incident to the danger arising from such defect or want of repair.⁶⁹⁸

This statute has not been adjudicated, so that its precise effect cannot be determined. Apparently it completely supercedes the Common Law doctrines as to the effect of protest and promise to repair. The latter, as we have seen, relieved only the employee to whom the promise was made—and him only so long as he might reasonably expect the promise to be kept. Under the act of 1907, on the contrary, a promise to repair is unnecessary; a notice of a defect given to the master or his representative by a single employee or by a public official relieves all employees from assumption of the risk of that defect. It is plain, therefore, that the statute gives the employee a considerably better position than he had under the Common Law. It is no less clear, however, that it does not by any means wholly relieve him from assumption of risks due to the master's negligence. If the employee, either from fear of discharge or for any other reason, fails to give the master or his representative formal notice of defects which come to his knowledge, his Common Law assumption of risk remains in full force.

THE FELLOW-SERVANT DOCTRINE

It is an ancient rule of law that a master is liable for all damages which third persons may sustain from the wrongful acts of his servant done in the course of his employment. To this rule there is an important exception which was established in a series of decisions in England and America shortly before the middle of the nineteenth century, and which has

long been recognized in all Common Law jurisdictions. That exception is that where different persons are employed by the same principal in a common enterprise no action can be brought by them against their employer on account of injuries sustained by one employee through the negligence of another.⁶⁹⁹

The fellow-servant doctrine, or the doctrine of co-employment, was already fixed in the Common Law before the first case under it came up for adjudication in Iowa. But the determination of the precise limits within which the doctrine applies has given rise to a great volume of litigation continuing to the present day. With the growth of the corporate organization of industry, by which enterprises are wholly conducted through employees of various grades, the fellow-servant rule has become increasingly important as a defense of employers. Rigidly applied, as it is by some courts, the doctrine defeats recovery for almost all injuries received in the service of large employers. Fortunately, however, the Supreme Court of Iowa has manifested a disposition to restrict rather than to extend the application of the rule. Several qualifications of the broad doctrine are, accordingly, recognized in this State, by which its injustice is somewhat mitigated.

CONCURRENT NEGLIGENCE OF MASTER AND FELLOW-SERVANT

Where negligence on the part of the master is the proximate cause of an injury to an employee, the fact that the wrongful act of another employee coöperated therewith to produce the injury will not relieve the master of liability.⁷⁰⁰ In other words, while the contributory negligence of the injured employee is a bar to recovery, that of a fellow-servant is not. This rule is but a special application of the general principle that where a wrongful act concurs with some other cause and both operate proximately in producing an injury, the wrong-doer will be liable, whether or not the other cause is one for which he is responsible.⁷⁰¹

NON-DELEGABLE DUTIES

The master can not so delegate certain duties which devolve upon him as to escape liability for their non-performance or mal-performance under the fellow-servant rule.⁷⁰² Among non-delegable duties are those to furnish a safe place to work,⁷⁰³ to provide safe tools and appliances, to hire competent servants,⁷⁰⁴ to warn servants of latent dangers,⁷⁰⁵ to instruct them in the performance of new duties,⁷⁰⁶ and to exercise proper control and supervision over the work.⁷⁰⁷ An employee to whom the performance of these or similar duties is entrusted becomes, as to them, an agent or vice principal for whose negligence the master is liable.⁷⁰⁸

VICE PRINCIPALSHIP

To the rule that a master is not answerable to one servant for the negligence of another, an exception arises where the servant who is guilty of the wrongful act stands to the master in the relation of vice principal. This exception was referred to in the first fellow-servant case in Iowa as being already recognized by the courts of Ohio.⁷⁰⁹ It was applied by the Supreme Court of Iowa as early as 1866⁷¹⁰ and has long been the established law of this State.

Two tests of vice principalship have been applied by the Iowa courts: the authority or rank of the servant; and the character of the act or service concerning which negligence is charged.⁷¹¹

RANK AS A TEST OF VICE PRINCIPALSHIP

The mere fact that an employee has authority to direct others at their work does not make him a vice principal.⁷¹² But a manager who has full direction of the business, or of a particular department or undertaking, is a vice principal as to acts within the scope of his authority.⁷¹³ In a number of cases the authority to hire and discharge men is made the test of vice principalship and it is said that an employee who possesses this authority is not a fellow-servant but a vice principal.⁷¹⁴

It follows from what has just been said that a mere foreman—that is, a laborer with power to superintend the labor of those working with him—is a co-employee so far as his own labor is concerned.⁷¹⁵ Accordingly, liability has been denied when the delinquents were the following employees:⁷¹⁶ a foreman of car-repairers;⁷¹⁷ a foreman superintending the construction of a house for a contractor;⁷¹⁸ or a machinist who occasionally called other employees to his assistance.⁷¹⁹ On the other hand, recovery was allowed for the negligence of the following persons in their capacity as supervisors: a section foreman;⁷²⁰ a mine boss;⁷²¹ a boss driver in a mine;⁷²² a railway yard foreman;⁷²³ a locomotive engineer;⁷²⁴ or a brakeman temporarily in charge of switching operations.⁷²⁵

CHARACTER OF ACT AS A TEST OF VICE PRINCIPALSHIP

There are some Iowa cases which appear to make the question of vice principalship turn upon the control exercised by the servant whose status is in dispute.⁷²⁶ But the test more commonly applied in this State is the character of the act charged as negligent. According to this test, an employee who is entrusted with the performance of a personal duty of the master is, as to such service, a vice principal, and his negligence is the master's.⁷²⁷ But a servant, whatever his rank or grade, who undertakes the work of an ordinary employee is, as to such service, a co-servant with others engaged in the same work.⁷²⁸ This doctrine of dual capacity, whereby the same person may be a vice principal as to some acts and a co-employee as to others, may now be considered the settled law of this State.⁷²⁹

DEPARTMENTAL DOCTRINE

Expressions are used in certain Iowa cases which seem to approve the doctrine of department of service. Thus, it has been held that a bridge builder is not a co-employee of a train crew upon the same railway line,⁷³⁰ that a brakeman is not a fellow servant of a car inspector,⁷³¹ and that an inspector of machinery is not engaged in the same service with an oper-

ative.⁷³² But the real test of common employment in this State appears to be whether or not the negligence of the delinquent servant was a risk contemplated by the injured servant in entering and remaining in his master's service. Probably the plaintiff's right to recover in all the cases above cited might be based upon the doctrine of unanticipated risk, or upon that of non-delegable duty. The Supreme Court has explicitly held that the fact that two servants are engaged in different branches of the common service can make no difference, so long as both are employed in the same general business under one master.⁷³³ By the test of anticipated risk the following employees have been held to be co-servants: a machinist engaged in placing shafting in a shop and an operative of one of the machines;⁷³⁴ a track inspector and a locomotive engineer;⁷³⁵ a sweeper and other employees in a round house;⁷³⁶ a coal-miner and road men employed in the same mine;⁷³⁷ a railway detective and the members of a train crew.⁷³⁸

RAILWAY LIABILITY ACT

Courts have often remarked in defense of the fellow-servant doctrine that the servants of a common master are able to know and guard against each other's negligence.⁷³⁹ Such a contention might have possessed some force if applied to the handicraft system of industry where the employees of one master were few in number and were closely associated at their work. But it is wholly inapplicable to a great railway corporation with its thousands of employees, who for the most part are necessarily strangers to each other. And yet it is precisely in railway employment that the fellow-servant rule has been most frequently applied. The effect of its first application in this State was to deny recovery to a railway track inspector injured by the negligence of an engineer.

The casualties in railway service are so shockingly numerous and recovery in so large a percentage of them is defeated by the fellow-servant rule that that rule has been abrogated by statute as respects railway employment in a number of

Common Law jurisdictions. The Iowa railway liability law was first enacted in 1862, only two years after the adoption of the doctrine of co-service by our Supreme Court. It was as follows:

Every rail-road company shall be liable for all damages sustained by any person, including employees of the company, in consequence of any neglect of the agents or by any mismanagement of the engineers or other employees of the corporation to any person sustaining such damage.⁷⁴⁰

The words "all contracts to the contrary notwithstanding" were added in 1870.⁷⁴¹ In 1872 railway companies were made liable for the wilful wrongs of their agents and employees when such wrongs were in any manner connected with the use and operation of the railroad.⁷⁴² In the *Code of 1873* these three acts were combined into one section which reads:

Every corporation operating a railway shall be liable for all damages sustained by any person, including employes of such corporation, in consequence of the neglect of agents, or by any mismanagement of the engineers or other employes of the corporation, and in consequence of the wilful wrongs, whether of commission or omission of such agents, engineers, or other employes, when such wrongs are in any manner connected with the use and operation of any railway, on or about which they shall be employed, and no contract which restricts such liability shall be legal or binding.⁷⁴³

With the exception of the final clause, relating to contracts, this law is still (1907) the same.⁷⁴⁴

Judicial construction of the railway liability act began in 1866 and has continued to the present day. It will be convenient, however, to discuss the questions which have arisen in logical order as presented by the statute rather than to trace the historical development of judicial interpretation.

In Iowa all the duties and liabilities imposed by law upon "corporations owning or operating railways" apply to any person who owns or operates a railway.⁷⁴⁵ Accordingly, the liability law has been held to apply to a lessee,⁷⁴⁶ to a receiver,⁷⁴⁷ and to a railway construction company which moves

trains upon the track in furtherance of its work.⁷⁴⁸ The statute does not apply to street railway companies,⁷⁴⁹ though interurban railways were brought within its provisions in 1902.⁷⁵⁰

The constitutionality of the railway liability law has been attacked repeatedly, but without success. As originally enacted the liability provision was a section of "An Act in relation to the duties of Rail Road Companies." In the first case which arose under this statute, that of *McAunich vs. Mississippi and Missouri Railroad Company* (20 Iowa 338) decided in 1866, it was contended that this title did not cover provisions relative to the *liabilities* of railroads within the meaning of that section of the State Constitution which requires that "Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title."⁷⁵¹ The Court held this objection to be not well taken. "Every law", it was said, "prescribing *duties* must have the sanction of *liabilities* resulting from a failure to perform those duties, in order to have any practical beneficial effect or operation."

But the burden of the attack upon the constitutionality of the law has been that it is class legislation. Thus, it has been argued that the statute violates the State Constitution in that it is not uniform in operation, and in that it grants privileges and imposes liabilities which are not extended upon the same terms to all citizens of the State;⁷⁵² and that it contravenes the Fourteenth Amendment to the Constitution of the United States by depriving railway companies of the equal protection of the law.

The objection that the statute is not uniform in operation was disposed of in the *McAunich* case above cited. The Court said:

It [the statute] applies to all railroad corporations now in existence, or which may hereafter exist, and is just as general and uniform as it would be if it applied to all common carriers. . . . Very many laws, the constitutionality of which are [is] not doubted, do

not operate alike upon all citizens of the State. . . . These laws are general and uniform, not because they operate upon every person in the State, for they do not, but because every person who is brought within the relations and circumstances provided for, is affected by the law. They are general and uniform in their operation upon all persons in the like situation, and the fact of their being general and uniform is not affected by the number of persons within the scope of their operation.

A similar line of reasoning disposes of the contention that the law violates the Constitution of Iowa and the Constitution of the United States by subjecting railroad corporations to penalties and liabilities which other persons and corporations engaged in a like business are not subjected to. For, it is said, the business of operating a railway is peculiarly hazardous, and as the statute applies to all corporations or persons engaged in operating railroads it does not discriminate in favor of or against anyone. It is a pure question of legislative discretion whether like penalties and liabilities should be applied to carriers by canal or stage coach, or to persons and corporations using steam in manufactories.⁷⁵³

Finally, the act, rightly construed, does not grant to railway employees any privileges or immunities which are not open upon the same terms to all persons in the same situation.⁷⁵⁴ In reaching this conclusion, however, the Court held in the case of *Deppe vs. Chicago, Rock Island, and Pacific Railway Company* (36 Iowa, 52) that the act must be so construed as to embrace not all railway employees but only those "engaged in the hazardous business of operating railroads". "When thus limited", said the Court, "it is constitutional; when extended further it becomes unconstitutional." The reasoning was that if applied to all persons in the employ of railroad corporations the statute would secure privileges to certain persons (section hands for example) which were denied to others in equally perilous callings. The effect of this decision was materially to limit the applicability of the law of 1862, the terms of which had included all railway employees.

The act of 1872 and the *Code of 1873* introduced a new element in the proviso, "when such wrongs of employees are in any manner connected with the use and operation of any railway, on or about which they shall be employed." The Supreme Court has held that the words "such wrongs" in this clause refer to negligent acts as well as wilful wrongs, and that recovery under the statute can only be had for injuries arising from the use and operation of railroads.⁷⁵⁵

The phrase, "use and operation of a railway", is judicially defined as referring only to the "handling of railroad machinery moved upon railroad tracks".⁷⁵⁶ Justice Beck, speaking for the Supreme Court, remarked in a leading case: "What is the use and operation of a railway? It is constructed for the sole purpose of the movement of trains. That is its sole use. What is the operation of a railway? They can be operated in no other way than by the movements of trains."⁷⁵⁷ But the word "trains" as here used must be understood to include all railroad machinery moved upon railroad tracks, as a single locomotive⁷⁵⁸ or a hand car.⁷⁵⁹

The decisions are not in complete accord as to the test by which the right of recovery under the statute shall be determined. Under the act of 1862 the test applied was, whether or not the injured servant was employed for the discharge of a duty which exposed him to the hazards incident to the operation of a railway. Under this rule, apparently, an employee would have been entitled to recover for an injury which did not arise from the peculiar hazards of railway operation so long as his employment embraced them.⁷⁶⁰

This rule just stated was changed by the act of 1873. Since that date, to entitle an employee to recover for the negligence of a co-employee, it must be shown (1) that he belonged to the class of employees to whom the statute affords a remedy and (2) that the act which occasioned the injury was of the class of acts for which a remedy is given.⁷⁶¹

As to the class of employees within the protection of the statute, it has been said that its benefits accrue only to such

employees as are employed at the time of receiving the injury in the business of operating a railroad.⁷⁶² On the other hand, there are cases holding that it is sufficient if the injury was caused by the operation of the railroad, irrespective of the employment in which the plaintiff was engaged.⁷⁶³ But, in spite of some diversity of expression, if not actual conflict, a majority of the cases hold that under the act of 1873 as well as that of 1862 any employee is within the protection of the statute while engaged in the performance of a duty which exposes him to hazards peculiar to the operation of a railway.⁷⁶⁴ Ordinarily the character of an employment and whether or not thereby the employee is brought within the provisions of the statute are questions of fact for a jury and not of law for the court.⁷⁶⁵ But where there is no dispute in the evidence upon these propositions the court may instruct the jury as to whether or not the case comes within the statute.⁷⁶⁶

We have already seen that the statute affords a remedy only for wrongs connected with the use and operation of a railway. The following judicial statement of the effect of the statute combines the two elements of the character of the employment and the cause of the injury:

If, then, the injury is received by an employe whose work exposes him to the hazards of moving trains, cars, engines, or machinery on the track, and is caused by the negligence of a co-employe in the actual movement thereof, or in any manner directly connected therewith, the statute applies, and recovery may be had. Beyond this, the statute affords no protection.⁷⁶⁷

Some concrete cases in which recovery has been allowed or denied will serve to further elucidate the effect of the statute.

All persons engaged in the actual operation of trains are within the statute as a matter of course. The essential questions in cases where members of train crews are plaintiffs are whether the co-servant was in fact negligent, and whether the injured employee was himself in fault.⁷⁶⁸ But other

classes of employees have from the first been held to be within the protection of the statute.⁷⁶⁹ Among these are:

First. Persons employed upon a train, though having nothing to do with its management. A laborer employed in the working of a ditching machine operated by moving along the track the train of which it formed a part, is a member of the train crew.⁷⁷⁰ The same rule applies to a shoveler upon a gravel train,⁷⁷¹ and to a laborer who rides upon a train and alights from time to time to clear the track of snow.⁷⁷²

Second. Employees working upon or about a "live" engine. An employee engaged in coaling a "live" engine,⁷⁷³ in coupling tanks together,⁷⁷⁴ or in operating a turn table,⁷⁷⁵ is exposed to perils peculiar to the operation of a railway.

Third. Employees at work upon a car which forms a part of a train, or is likely to be moved by the operation of trains. A car inspector whose duty requires him to go beneath all cars,⁷⁷⁶ a car repairer injured by a moving engine when at work in a railway yard,⁷⁷⁷ a car cleaner at work in a car standing upon a side track which was run into by an engine,⁷⁷⁸ and a mechanic injured while repairing one of the cars of a train⁷⁷⁹ were each held to be within the protection of the statute.

Fourth. Employees exposed to the peril of passing trains while in the performance of their duty are within the statute. This rule has been applied to a railway detective rightfully walking along the track,⁷⁸⁰ to a water carrier for a bridge gang,⁷⁸¹ and to section men engaged in track repairing—if but injured by the negligence of employees engaged in the operation of the railroad.⁷⁸²

Fifth. Section men riding upon a hand car.⁷⁸³

On the other hand, employees in the following situations have been held not to be engaged in the operation of a railway so as to make the company liable for the negligence of a fellow-servant in the same employment: employees in a railway machine shop;⁷⁸⁴ employees engaged in hoisting coal in a railway coal house;⁷⁸⁵ sweepers in a round house;⁷⁸⁶ men

repairing a "dead" engine;⁷⁸⁷ section hands repairing the track;⁷⁸⁸ or men loading a detached car.⁷⁸⁹

As to all cases not embraced in the statute, the Common Law rule exempting the employer from liability to an employee for the negligence of a co-employee is still in force.⁷⁹⁰ Even as to cases within its terms the statute does not change the degree of care due from a master to his servants,⁷⁹¹ nor does it affect the defense of contributory negligence.⁷⁹²

The clause in the railway liability act reading that "no contract which restricts such liability shall be legal or binding", has been attacked as an unconstitutional interference with "freedom of contract". The Court, in overruling this contention, remarked:

There is no such thing as absolute liberty of contract. Indeed, all personal and property rights are subject to proper legislative regulation and control. . . . A very great proportion of our legislation is a restriction on some one's liberty. Indeed, the liberty of which we boast and are so justly proud is liberty under law, and not absolute license. It is freedom frequently restrained by law for the common good.⁷⁹³

An agreement entered into at the time of the employment between the company and an employee that if he sustains any personal injury for which he makes a claim against the company for damages, failure to give notice thereof in writing within thirty days after injury is sustained shall be a bar to action, is a contract restricting the company's liability, and is therefore invalid.⁷⁹⁴ But where a railway company maintains a relief department to which both the company and its employees contribute, a stipulation in the certificate of membership in such association that a suit which ripens to judgment or is compromised shall bar recovery under the certificate, or that the acceptance of benefits from the department shall operate as a release and satisfaction of all claims against the company, is not in violation of the laws of 1870 and 1873.⁷⁹⁵

The last decision had reference to the Burlington Voluntary Relief Department, organized in 1889. The essential

features of this organization are shown in the following extracts from the application blank:

APPLICATIONS

Membership in the relief fund shall be based upon an application in the following form:

I,, of, in the county of..... and state of....., now employed by the Chicago, Burlington & Quincy Railroad company as thedo hereby apply for membership in the relief fund of the relief department of said company, and consent and agree to be bound by the regulations of said relief department, which regulations I have read or have had read to me, and by any other regulations of said department hereafter adopted and in force during my membership, and by any agreement now or hereafter made by the said company with any other corporation or corporations now or hereafter associated with it in the administration of their relief departments.

I also agree, that the said company, by its proper agents, and in the manner provided in said regulations, shall apply, as a voluntary contribution from any wages earned by me under said employment or from benefits that may hereafter become payable to me, the sum of \$..... per month, for the purpose of securing the benefits provided in the regulations for a member of the relief fund of theclass, with additional death benefit of the first class.

.....

I also agree, that in consideration of the amounts paid and to be paid by said company for the maintenance of said relief department, and of the guarantee of said company of the payment of said benefits, the acceptance by me of benefits for injury shall operate as a release and satisfaction of all claims against said company and all other companies associated therewith in the administration of their relief departments, for damages arising from or growing out of said injury; and further, in the event of my death, no part of said death benefit or unpaid disability benefit shall be due or payable unless and until good and sufficient releases shall be delivered to the superintendent of said relief department, of all claims against said relief department, as well as against said company, and all other com-

panies associated therewith as aforesaid arising from or growing out of my death, said releases having been duly executed by all who might legally assert such claims; and further, if any suit shall be brought against said company, or any other company associated therewith as aforesaid, for damages arising from or growing out of injury or death occurring to me, the benefits otherwise payable and all obligations of said relief department and of said company created by my membership in said relief fund, shall thereupon be forfeited without any declaration or other act by said relief department of said company.

I also agree, that this application, upon approval by the superintendent of the relief department, shall make me a member of the relief fund, on and from the date specified in such approval, and constitute a contract between myself and the said company, and that the same shall not be avoided by any change in the character of my service, or locality where rendered, while in the employment of said company, nor by any change in the amounts applicable from my wages to the relief fund, which I may hereafter consent to, and that the agreement that the above named amounts shall be appropriated from my wages shall apply also to any other amounts which I may agree to pay under the provisions of said regulations, by reason of changes made as aforesaid, and shall constitute an appropriation and assignment in advance of such portions of my wages, to the said company in trust, for the relief fund, for the purpose of maintaining my membership therein, which assignment shall have precedence over any other assignment by me of my wages, or of any claim upon them on account of liabilities incurred by me.

.....
I certify that I am correct and temperate in my habits; that so far as I am aware I am now in good health, and have no injury or disease, constitutional or otherwise, except as shown on the accompanying statement made by me to the medical examiner, which statement shall constitute a part of this application.

I also agree that any untrue or fraudulent statement made by me to the medical examiner, or any concealment of facts in this application, or any attempt on my part to defraud or impose upon said relief fund, or my resigning from, or leaving the service of the said company, or my being relieved or discharged therefrom, shall forfeit my membership in the said relief fund, and all benefits, rights

or equities arising therefrom, except that such termination of my employment shall not (in the absence of any of the other foregoing causes of forfeiture) deprive me of any benefits to the payment of which I may be entitled by reason of disability beginning before and existing at such termination of my employment, nor of the right to continue my membership in respect of death benefits only, as provided in said regulations.

It was asserted by employees that membership in the Relief Department was practically compulsory, at least for trainmen. The company claimed, on the contrary, that membership was purely voluntary and that the organization was wholly benevolent in purpose.⁷⁹⁶ Whatever the truth of these respective assertions, it is abundantly clear from the contract of membership above quoted that members of the organization practically became their own insurers. The Relief Department thus operated to relieve the company of its liability under the common and statutory law.

The Supreme Court's decision upholding the validity of the Burlington Relief contracts was a surprise. It was felt that under this decision it would be possible for every railway company to defeat the purpose of the liability law by making membership in some similar association a condition of employment. Accordingly railroad employees at once began demanding legislation which should expressly invalidate such contracts as that used upon the Burlington system. Their demands were embodied in the following amendment to the railway liability law, which was presented by Representative Temple at the special session of the legislature in 1897:

Nor shall any contract of insurance, relief, benefit, or indemnity in case of injury or death, nor any other contract entered into prior to the injury, between the person so injured and such corporation, or any other person or association acting for such corporation, nor shall the acceptance of any insurance, relief, benefit or indemnity by the person injured after the injury, from such corporation, person or association, constitute any bar or defense to any cause of action brought under the provisions of this section.⁷⁹⁷

The Temple Amendment, as it has ever since been called, was adopted by the House without opposition. In the Senate, the amendment was referred to the Committee on Railways before which the railway brotherhoods appeared by their officers and the Burlington Railway Company by attorney. The committee finally reported a substitute which was adopted by the Senate and rejected by the House, after which a Conference Committee threw out both original and substitute.⁷⁹⁸

After the adjournment of the legislature the Temple Amendment passed into politics and its principle was indorsed by the Republican and Democratic parties in their State platforms of that year.⁷⁹⁹ An act embodying that principle was accordingly passed at the next session of the General Assembly (1898) with little opposition.⁸⁰⁰ The law as enacted is as follows:

Nor shall any contract of insurance, relief, benefit or indemnity in case of injury or death, entered into prior to the injury, between the person so injured and such corporation, nor shall the acceptance of any such insurance, relief, benefit, or indemnity by the person injured, his widow, heirs, or legal representatives after the injury, from such corporation, person, or association, constitute any bar or defense to any cause of action brought under the provisions of this section, but nothing contained herein shall be construed to prevent or invalidate any settlement for damages between the parties subsequent to injuries received.⁸⁰¹

The Supreme Court has held in a recent case that the effect of the Temple Amendment is to invalidate the Burlington Relief contracts so far as these undertake to restrict the liability of the railway.⁸⁰² The constitutionality of the law was considered at great length in this case and was upheld in every point.

CONCLUSION

The Common Law of employers' liability has been materially modified in the direction of justice and humanity by the Iowa statutes of railway liability and assumption of risks. But that law, even as thus modified, is still very far from

according adequate protection to employees in any hazardous calling. The annual reports of deaths and injuries from industrial accidents read like the returns of a great battle.⁸⁰³ For most of these deaths and injuries our law affords no remedy.

Statistics collated by the German Imperial Insurance Office show that less than seventeen percent of industrial accidents are caused solely by the negligence of the employer, that more than thirty-five percent are in some measure contributed to so as to defeat recovery under our law by the injured employee, and that above forty percent are due to inevitable accidents connected with the employment.⁸⁰⁴ These statistics are the indictment of the Common Law of employers' liability. They make it clear that a rule which permits recovery only for the negligence of the master, and then only for such negligence as was not "assumed" by the injured employee, throws the chief burden of industrial accidents upon those least able to bear it themselves or to shift it to others—"on the individual workman, disabled for service through the mere fact of his employment at the time and place of the occurrence of an inevitable accident, or on the widow and children of such workman, if the accident results fatally."⁸⁰⁵

This result is chiefly due to the doctrine of assumption of risks with its corollary, the fellow-servant doctrine. The doctrine of contractual assumption of risks rests upon three pre-suppositions:

First. It is said that wages are so adjusted to the hazards of each employment as to afford full compensation for the risks undertaken by the employee.⁸⁰⁶ That this is not true is a matter of common knowledge. But even if it were so, to make each employee his own insurer imposes upon the individual engaged in an extra-hazardous employment risks for which his wages can provide no adequate reserve.

Second. It is asserted that the effect of devolving the risks of the service upon the employees is to make them more careful for their own safety than they would otherwise be.⁸⁰⁷

This theory involves nothing less than the supposition that employees deliberately incur loss of life and limb in order that they or their heirs may recover damages for their death or injury. The statement of such a proposition is its own refutation.

Third. It is assumed that business could not be carried on if employers were compelled to bear the risks of employment.⁸⁰⁸ The sufficient answer to this argument is that industry is successfully prosecuted in countries such as Great Britain and the German Empire where that rule is established by law.

There is even less logical justification for the theory that an employee voluntarily waives his master's negligence by continuing at work with knowledge of such negligence. True, it is said that the servant's continuance in his master's employment is purely voluntary—he has the right to quit the service at any time.⁸⁰⁹ In other words, the employee is guaranteed the inalienable right to starve. The facts of every day experience show that men will often choose even dangerous employment rather than safety attended with want.⁸¹⁰

Similarly, it is now generally admitted that the fellow-servant doctrine has very little foundation in reason or justice.⁸¹¹ Indeed, very competent authorities have said that the doctrine was boldly invented by “a small number of able judges, devoted, from varying motives, to the supposed interests of the wealthy classes, and caring little for any others”.⁸¹²

If the foregoing analysis is correct—and it is believed to represent the opinions of most careful students of this subject—it is plain that the Common Law of employers' liability does not rest upon any secure logical foundations. Certainly it can not be said to meet the ends of social justice. Three tests of this assertion may be applied:

First. Sound public policy surely requires that the victims of industrial accidents shall have cheap, speedy, and certain relief. This the law of Iowa does not furnish. Even in those cases where recovery is allowed, years of litigation

very commonly intervene between an injury and final judgment therefor. And of the damages ultimately collected a large (sometimes the larger) part is appropriated by attorneys.

Second. Society has a direct interest in the prevention of industrial accidents. But under the existing law of employers' liability it is often cheaper for the wealthy employer to go on killing and maiming his men than to adopt practical but costly appliances for their safety. It is noteworthy that the general adoption of safety appliances at coal mines, upon railways, and in factories was brought about, not by the application of the Common Law to personal injury suits, but by penal statutes.

Third. It will hardly be denied that the financial burdens of industrial accidents ought to be distributed over industry at large. Our law, on the contrary, places the chief part of these burdens upon the individual working man and his family.

IX

MISCELLANEOUS LABOR LEGISLATION

In this chapter it is proposed to discuss laws which can not conveniently be brought under any classificatory heading.

INCORPORATION OF LABOR ORGANIZATIONS

An act passed by the General Assembly in 1886 extended the general statute governing the incorporation of associations not for pecuniary profit to "trades union and other organizations of labor, for the regulation, by lawful means of prices of labor, of hours of work, and other matters pertaining to industrial pursuits."⁸¹³ This is believed to be the earliest recognition of labor unions in the laws of this State. It has not had much practical effect, owing to the reluctance of labor organizations to incorporate themselves.

BLACKLISTING

Following the example of a number of the American Commonwealths, Iowa in 1888 enacted a blacklisting law which makes it a misdemeanor for any person, agent, company, or corporation to prevent or attempt to prevent by word or writing of any kind any discharged employee from obtaining employment with any other person, company, or corporation. But a truthful statement, in writing, of the causes of discharge may be furnished upon request. Penal damages may be recovered for any loss of employment due to blacklisting. Moreover, for blacklisting by the agents of any company, co-partnership, or corporation, of any discharged employee or of any employee voluntarily quitting the service of such company, co-partnership, or corporation treble damages are allowed.⁸¹⁴ This statute appears never to have been construed by the Supreme Court.

BOYCOTTING

Boycotting is not specifically prohibited by the Iowa statutes, and no case so far as known has ever come before the Supreme Court. But a boycott is, no doubt, within the terms of the general conspiracy law, dating from 1851, which makes it a crime punishable by imprisonment in the penitentiary to conspire "to injure the person, character, business, or property of another; or to do any illegal act injurious to the public trade."⁸¹⁵

PROTECTION OF UNION LABELS

Laws to prevent the counterfeiting or unauthorized use of labor union labels exist in most States. A bill for such a law in Iowa was introduced by Senator W. W. Dodge at the legislative session of 1892 and was passed without opposition. The act makes it a misdemeanor to imitate any label, trade-mark, or form of advertisement adopted by any person, association, or union of workingmen or others; or knowingly to use any imitation or counterfeit thereof; or to use the genuine label, trade-mark, or advertisement in an unauthorized manner. The manufacture, sale, use, or display of counterfeit labels, trade-marks, or forms of advertisement may be enjoined and the party wronged may recover damages, including the profits resulting from the wrongful act and a reasonable attorney's fee.⁸¹⁶ This act has been construed by the Supreme Court and its constitutionality upheld.⁸¹⁷

EMPLOYMENT AGENCIES

The bringing together of the buyers and sellers of labor is a function not as yet generally undertaken by the State. Yet the equilibrium of the labor market concerns very nearly the social welfare. Unemployment most frequently falls to the lot of the least efficient members of the community—those whose wages are lowest and whose reserves are smallest. Moreover, these are precisely the classes who are least able to travel in search of work or to avail themselves of such sources of information as are open to members of skilled

trades through their respective unions. Hence, unless provided for by public or charitable intelligence offices the unskilled laborer is left at the mercy of private employment agencies. Many of these agencies are conducted honestly in the interests both of employer and employed. Perhaps a still larger number take advantage of the helplessness of the classes with which they principally deal to practice fraud and extortion.⁸¹⁸ The argument for public employment offices is thus based on two grounds: (1) social utility and (2) public protection. On the one hand, it is urged that such offices will benefit employers as well as laborers; on the other, that their competition will drive out the most undesirable of the private agencies.

Five free public employment offices—the first in the United States—were opened in Ohio in 1890.⁸¹⁹ About a year later Commissioner Sovereign of the Iowa Bureau of Labor Statistics, encouraged by the success of the Ohio experiment, strongly recommended that his bureau be authorized to maintain a free employment agency in connection with its statistical work. The Commissioner wrote as follows:

Nearly all kinds of labor is in a transitional state caused by the rapid evolution in the mechanical methods of production and the practice of many manufacturers to control the output by closing factories and otherwise limiting the supply, which is usually done without notice to employes and without considering their welfare. Hundreds of our working people are compelled by these and other causes to seek employment among strangers without any knowledge of whether it is obtainable or not. . . . The first duty of a government is to make it easy for its citizens to do right and accord them the broadest opportunity to earn a livelihood by industrial avocations. Therefore the need of free public employment agencies where both labor and capital may make their wants known and receive information beneficial to both.⁸²⁰

This argument deeply impressed Governor Boies, who gave a warm indorsement to the Commissioner's recommendation in his first message to the legislature in January, 1892.⁸²¹ A

bill was soon afterward introduced providing for an employment office in the State Bureau of Labor Statistics, to be conducted wholly by correspondence. The bill was supported by numerous petitions, but failed to reach a vote in either branch of the legislature.⁸²² Two years later another bill was presented to the General Assembly, this time providing for correspondence offices in each county as well as in the State capital; it met the same fate as its predecessor.⁸²³ "The Commissioner of Labor then, in hopes of being able to show by actual results the practical utility of such a measure, endeavored to enlist the assistance of the different county auditors of the State in the establishment in a small way of such a bureau as contemplated by the Chesire-Dowell Bill. A majority of the county auditors in the State agreed to do all in their power to help in the work, and the newspapers almost without exception gave the scheme generous support. But for some cause it did not meet with success. The Bureau was maintained for five months, and during that time, although applications for situations were numerous, the Commissioner was unable to secure work for a single applicant and abandoned the attempt."⁸²⁴

This want of success was attributed by Commissioner Sovereign's successor in office to the wide-spread industrial depression during the summer of 1894, when the experiment was tried, and also to distrust of the scheme on the part of employers. Another reason for failure is, no doubt, to be found in the method used—the correspondence or "mail order"⁸²⁵ system. This plan has nowhere met with much success, except perhaps in placing farm hands. Few Iowa farmers were looking for hands in 1894.

After the failure of 1894 the agitation for public employment offices in Iowa remained in abeyance for about a decade, when it was revived by the Federation of Labor. By that time public employment offices were in successful operation in fifteen States, so that the theoretic argument in their favor was abundantly supported by experience.

The bill which was presented to the General Assembly in 1906 was very carefully drawn, and was pronounced a model by Dr. J. E. Conner of the United States Bureau of Labor, who was then engaged in a special investigation of employment bureaus. But the State Manufacturers' Association and the Citizens' Industrial Alliance, professing to see in the proposed measure a scheme to further the interests of organized labor, exerted themselves against it.⁸²⁶ Their efforts were successful; the bill was beaten on the floor of the House and never came to a vote in the Senate.⁸²⁷

After the failure of all efforts to establish public employment offices, the friends of the movement turned their attention to the public regulation of private agencies. Two acts were carried at the last session of the General Assembly (1907), one of which authorized incorporated cities and towns to license and regulate all keepers of intelligence or employment offices, bureaus, and agencies;⁸²⁸ while the other act limits the fee of the agency to one dollar in case of failure to secure employment, requires a written contract, whereof one copy must be delivered to the applicant for employment, forbids the division of fees between the bureau and the employer, authorizes the Commissioner of the Bureau of Labor Statistics to examine the books, records, and papers of any employment agency at any time, and makes it his duty to investigate all complaints against such agencies or bureaus.⁸²⁹

Pursuant to the power granted them by the legislature four of the larger cities in the State have adopted ordinances regulating employment agencies, charging a license fee ranging from ten to fifty dollars per annum, and requiring a bond to be filed with the city clerk.⁸³⁰ These cities report about a dozen agencies in operation in 1908. How many exist in unregulated cities it is impossible to say.

EMPLOYEES' RIGHT TO VOTE

In 1892 it was enacted that any person entitled to vote at a general election may absent himself from any employment

in which he is engaged for two hours upon the day of such election, and shall not be subject on account of such absence to any penalty or deduction from his usual wages. At the same time it was made a misdemeanor to attempt to influence the vote of an employee by offering any reward or by threatening discharge or by otherwise intimidating him.⁸³¹ Similar laws exist in many States.

HOURS OF LABOR ON PUBLIC ROADS

There is no general law governing the hours of labor on public works in this State. An act was passed in 1884 declaring that nine hours shall constitute a day's work on the public roads in payment of the poll tax.⁸³² This was reduced to eight hours in 1897.⁸³³

ARBITRATION

The first report of the Commissioner of the Iowa Bureau of Labor Statistics (1885) recommended the establishment of a State Board of Arbitration for the settlement of industrial disputes.⁸³⁴ Numerous arbitration bills were introduced at the next session of the General Assembly.⁸³⁵ But all measures looking toward the creation of a permanent board under the direction of the State Bureau of Labor Statistics were rejected by the legislature. Instead, there was enacted a provision for tribunals of voluntary arbitration in each county.

These tribunals were to be appointed by the District Courts upon the application of not less than twenty workmen and of a firm or firms employing at least twenty men. Each tribunal was to continue in existence for one year from the date of the license creating it, and was to consist of not less than two workmen and two employers who were to choose an umpire by mutual consent. The jurisdiction of the tribunal was to extend to any dispute between employers and workmen in any mechanical, manufacturing, or mining industry, or business, who should have petitioned for the tribunal, or been represented in the petition therefor, or who might submit their disputes in writing for decision. The umpire was to

be called upon to act in case the tribunal should fail to agree after full discussion in three meetings. The decision of the umpire was final upon the matters submitted; if for a specific sum of money, the award must be filed with the District Court, and judgment might then be entered thereon.⁸³⁶

This law was not "found of any practical utility. The proceeding provided for was entirely voluntary, and the determination when reached was not enforceable."⁸³⁷ The statute was accordingly omitted by the commission which framed the *Code of 1897*, and no other legislation has been enacted.

X

THE IOWA BUREAU OF LABOR STATISTICS

The Iowa Bureau of Labor Statistics was the fourteenth in order of establishment in the United States.⁸³⁸ The act creating the Bureau was passed in 1884 at the instance of the Knights of Labor,⁸³⁹ and not without opposition in both branches of the legislature.⁸⁴⁰ The act received the Governor's approval April 3, 1884.⁸⁴¹ Eleven days later the first Commissioner entered upon his duties.⁸⁴²

During the first ten years of the Bureau's existence its personnel consisted only of the Commissioner, appointed by the Governor by and with the advice and consent of the Executive Council for the term of two years. An appropriation for clerical assistance was made in 1894.⁸⁴³ The office of Deputy Commissioner was created two years later.⁸⁴⁴ A Factory Inspector and an office clerk were added to the Bureau's force in 1904.⁸⁴⁵

The Bureau has never been very liberally supported. The Commissioner's salary was fixed at fifteen hundred dollars per annum in the law of 1884, and remained unchanged for twenty-three years when it was raised to eighteen hundred.⁸⁴⁶ The Deputy Commissioner received a thousand dollars from 1896 to 1904, twelve hundred from 1904 to 1907, and fifteen hundred since the latter date. The Factory Inspector receives a hundred dollars a month and the clerk sixty-five. The entire expenses of the Bureau other than salaries of officers (except, of course, for the printing and distribution of its reports) are limited to fifteen hundred dollars a year.⁸⁴⁷ Thus the cost of maintaining the Bureau does not exceed seven thousand dollars a year—much less than the expenditure for similar bureaus in other States having no greater wealth and population than Iowa.

The law of 1884 defined the scope of the Bureau's work as follows:

The duties of said commissioner shall be to collect, assort, systematize and present in biennial reports statistical details relating to all departments of labor in the state, especially in its relations to the commercial, social, educational and sanitary conditions of the laboring classes, and to the permanent prosperity of the mechanical, manufacturing and productive industries of the state, and shall as fully as practicable collect such information and reliable reports from each county in the state [;] the amount and condition of the mechanical and manufacturing interests, the value and location of the various manufacturing and coal productions of the state, also sites offering natural or acquired advantages for the profitable location and operation of different branches of industry; he shall by correspondence with interested parties in other parts of the United States impart to them such information as may tend to induce the location of mechanical and producing plants within the state, together with such other information as shall tend to increase the productions, and consequent employment of producers; and in said biennial report he shall give a statement of the business of the bureau since the last regular report, and shall compile and publish therein such information as may be considered of value to the industrial interests of the state, the number of laborers and mechanics employed, the number of apprentices in each trade, with the nativity of such laborers, mechanics ['] and apprentices' wages earned, the savings from the same, with age and sex of laborers employed, the number and character of accidents, the sanitary condition of institutions where labor is employed, the restrictions if any which are put upon apprentices when indentured, the proportion of married laborers and mechanics who live in rented houses, with the average annual rental and the value of property owned by laborers and mechanics; and he shall include in such report what progress has been made with schools now in operation for the instruction of students in the mechanic arts and what systems have been found most practical, with details thereof.

"The means of escape from, and the protection of life and health in factories, the employment of children, the number of hours of labor exacted from them and from women," were

added to the subjects to be included within the Bureau's reports in 1902.⁸⁴⁸ In addition to these purely statistical duties, the Commissioner and his assistants were charged with the work of factory inspection and the enforcement of the factory act in 1902,⁸⁴⁹ with the enforcement of the fire escape law in 1904,⁸⁵⁰ and of the child labor act in 1906,⁸⁵¹ and with the supervision of private employment agencies in 1907.⁸⁵² The Bureau has thus become much more than a mere gatherer of labor statistics. Its scope would be more accurately expressed by the title "Bureau of Labor".

Three methods of collecting statistical information have been employed by the Bureau: (1) correspondence, (2) investigation by field agents, and (3) the taking of testimony. These methods will be discussed in the order mentioned.

The great weakness of the correspondence method of collecting statistics lies in the difficulty of securing complete or even representative returns. This is particularly true as regards the wage-earning classes.⁸⁵³ The class of laborers whose names are easiest to ascertain and who are most likely to respond to requests for information are labor unionists. A majority of the individual reports of wage-earners, accordingly, are derived from this source. These reports are, therefore, representative of a selected class rather than of the general level of wage-workers. Even so, however, the wage-earners' reports upon wages, hours of labor, and conditions of work in various occupations and at different places throughout the State are highly instructive.

Much of the information which the Bureau of Labor Statistics is required by law to collect can only be secured from employers of labor. But the Bureau, during the first twelve years of its existence, was wholly without authority to compel anyone to make reports. Many large employers ignored the schedules sent them to be filled out; a few even denied officers of the Bureau access to their books, refused them admission to their plants, and sought to prevent their employees from furnishing them any information.⁸⁵⁴ To remedy this and

other defects in the law of 1884, extensive amendments were adopted in 1896, upon the earnest recommendation of the Commissioner,⁸⁵⁵ enlarging the powers and increasing the support of the Bureau.⁸⁵⁶

The amended law makes it the duty of every owner, operator, or manager of every factory, mill, workshop, mine, store, business house, public or private work, or any other establishment where five or more wage earners are employed to make to the Bureau of Labor Statistics, upon the blanks furnished by the Bureau, such reports as the Bureau may require for the purpose of compiling such labor statistics as are contemplated by the laws. Reports must be made within sixty days after the receipt of the blanks, and the person reporting must certify to the correctness of the same. Neglect or refusal to make reports is a misdemeanor punishable by fine or imprisonment. The names of the individuals, firms, or corporations furnishing information cannot be made public by the Commissioner.

There was great opposition in the legislature to the compulsory feature of the act of 1896, and also to the authorization by the same act of the inspection of factories and places of employment.⁸⁵⁷ One of the Senators, in explaining his negative vote, called the act "a radical departure from the principles of the republican form of government, un-American and inquisitorial, unjust to manufacturers and bringing no advantage whatever to the laborers, but on the contrary will work to their injury, and to the mutual injury of both employer and employe by tending to beget and intensify antagonism between them, producing strife and distrust when mutual interests demand concord and confidence."⁸⁵⁸ The bill had been once rejected in the House by a vote of thirty-two to thirty-four, but was carried four days later by the decisive vote of sixty-eight to thirteen.⁸⁵⁹

What possible harm can be done to any legitimate industry by the collection of statistics has never been explained. Neither has any system yet been devised whereby such statis-

tics can be collected without the power of compelling replies to inquiries.

To render the Commissioner's inquiries as innocuous as possible, a form of blank was incorporated in the act of 1896, and this is still retained in the statutes,⁸⁶⁰ though the Commissioner is now required to collect several items of information not included within this blank. Inasmuch, however, as the language of the statute implies a measure of discretion, the Attorney General has held that the blank form incorporated in the law was not intended to be rigid, but that the Commissioner may add all questions which he may deem necessary to gain such information as he is required to collect.⁸⁶¹ In accordance with this opinion, the Commissioner adopted the blank given below for the compilation of his report of 1903. A somewhat different form was used for the report of 1906. A comparison of the schedule for 1903 with the statutory blank, which is likewise reproduced, will show that the former is much more comprehensive.

GENERAL INQUIRIES, 1903⁸⁶²

TO ALL EMPLOYERS OF FIVE OR MORE PERSONS IN IOWA

Answer such questions only as pertain to your business and establishment.

1. Name of firm or corporation.....
2. Located at.....County. 3. Kind of business transacted.....
4. Number of employes during last fiscal year..... No. adult males.....No. adult females..... No. children under sixteen years.....
5. Number of hours worked per day by men..... By women..... By children.....
6. Total amount of wages paid adult males during the last fiscal year \$.....
7. Total amount of wages paid adult females during last fiscal year \$.....
8. Total amount paid children under sixteen during last fiscal year, \$.....
9. Any actual increase or reduction in the rate of wages during last fiscal year, \$.....; If so, what amount or percent of increase?..... Or what amount or percent of reduction?..... How many employes were affected?.....
10. Cause of increase or reduction..... 11. Any in-

crease or reduction of business during last fiscal year?.....
 Increase? \$...... Decrease? \$...... 12. Number
 of weeks during last fiscal year business was run on full time with
 full force?..... 13. Number of weeks during last fiscal
 year business was run on short time with reduced force?.....
 14. Number of weeks during last fiscal year business was suspended?
 15. How many strikes or lockouts since December
 31, 1900?.....

MEANS OF ENTRANCE AND EXITS TO BUILDINGS

16. Number of stories in building?..... Brick or frame?
 17. Number of stairways, inside?.....
 Outside?..... 18. Are fire escapes provided, according
 to law, enacted in 1902?..... 19. Number of elevators?.....
 How protected?..... 20. Number of hoists?.....
 How protected?..... 21. Are employes locked in dur-
 ing working hours?..... 22. Are doors hinged to swing in-
 ward or outward?.....

VENTILATION AND SANITATION.

23. How are work rooms and buildings ventilated?.....
 24. Are suitable water or earth closets provided?.....
 25. Description of closets..... Condition as to cleanli-
 ness..... 26. Are closets for females separate and
 apart from the males?..... Are they properly screened?.....

SAFEGUARDS TO MACHINERY AND ACCIDENTS

27. Are loose pulleys and belt shifters used?..... 28. Are
 vats, pans, saws, cogs, set screws, fly wheels and all geared machinery
 properly guarded?..... 29. Are emery wheels, tumbling
 barrels and dust producing machinery provided with suction fans or
 dust blowers?..... 30. If steam boilers are used, by whom
 are they inspected?..... How often?.....
 31. Are children under sixteen years of age operating or assisting
 to operate dangerous machinery of any kind?..... 32. Are
 employes allowed to clean machinery while in motion?.....
 33. Are cautionary instructions posted or verbally given to em-
 ployes operating machinery?..... 34. Number of accidents
 since December 31, 1900..... Nature of accidents.....
 Number killed..... Number injured.....

MANUFACTURES

35. Total capital invested, including lands, buildings, tools and machinery, \$..... 36. Total cost of production for last fiscal year, including raw materials, freights, rents, taxes, miscellaneous expenses and salaries of officials, but do not include wages, \$..... 37. Total value of product for last fiscal year, \$.....

STATUTORY BLANK

Name of firm or corporation..... Number of hands employed during year ending December 31,.....; males.....; females.....; apprentices..... Total amount of wages paid during year ending December 31,.... \$..... Total amount of wages paid previous year.... \$..... Any general increase or reduction of wages during the past year? If so, what percent of increase or reduction?..... cause of increase or reduction..... Any increase or decrease of business during past year. \$..... What means are provided for the escape of employes in case of fire? What measures are taken to prevent accidents to employes from machinery?..... How are buildings ventilated?..... Are separate water closets and wash rooms provided for the different sexes?..... Number of weeks during past year business was run on full time with full force, Number of weeks during past year business was run on short time or with reduced force, Number of weeks during past year business was suspended..... Number of strikes during year ending December 31,.....; number involved,; alledged cause; result,; how many days did strike continue, and what was loss of wages in consequence thereof?..... Was any property destroyed and if so its value?.....

Many facts affecting the welfare of laborers can be ascertained only by investigation on the spot. This is true as regards sanitation and the protection of life and limb in places of employment, child labor, the housing of the working classes, and numerous other subjects which will readily suggest themselves to the reader. Many other items of information can be

more cheaply and satisfactorily secured through field work than by correspondence.⁸⁶³ Nevertheless, no provision whatever was made for traveling expenses of officers of the Bureau until the amendatory act of 1896, and the total of such expenditures was then limited to five hundred dollars per annum. We already have seen that the Bureau is now restricted to fifteen hundred dollars a year for all contingent expenses. With so small a fund at its disposal the Bureau has never been able to undertake any extensive investigation. The facts included under the heading "Factory Inspection", are ascertained wholly by personal investigation; other statistical matter in the Bureau's reports is collected chiefly by correspondence.

The act creating the Bureau of Labor Statistics authorized the Commissioner to issue subpoenas for witnesses and examine them under oath and enforce their attendance to the same extent and in the same manner as a justice of the peace. The amendatory act of 1896 prescribes a penalty not exceeding fifty dollars and costs of prosecution for refusal to attend or testify at the time and place named in the subpoena, excuses a witness from attendance outside the county in which he resides, and limits the expense for witnesses to one hundred dollars annually. The power of taking testimony is used by officers of the Bureau where necessary in conducting special inquiries.

The law of 1884 requires the Commissioner of the Bureau of Labor Statistics to compile a biennial report of not more than six hundred printed pages octavo. Twelve such reports, ranging in bulk from one hundred seven to six hundred eight pages, have been issued up to the present time (1908).⁸⁶⁴ The number of copies printed has varied from time to time, but is now fixed at thirty-five hundred.⁸⁶⁵ The demand for the reports has frequently exceeded the supply.

Table I below is a list of thirty-two topics treated in the several reports of the Iowa Bureau of Labor Statistics, with the number of pages devoted to each subject. The list is not

intended to be exhaustive, but only to indicate the principal contents of the reports. It will be observed that while the entire range of topics is considerable, many of the subjects are considered in but one or two reports. Only seven of the thirty-two appear in half or more of the reports.

Nine of the Commissioners' reports contain statistical and textual matter based upon the individual returns of wage-earners. Statistics of railway employees are likewise given in nine reports; these are in part based upon individual returns, and in part taken from the reports of the Iowa Railroad Commissioners. Employers' statistical reports have been compiled only since the passage of the amendatory act of 1896. The tables of classified wages in four biennial reports are based upon the payrolls of employers. Thus the data for the most comprehensive and valuable statistics now published by the Bureau are obtained from employers. Unfortunately the law requires reports to be made only by employers of five or more persons. Thus the Bureau's returns are necessarily incomplete, though they may be fairly representative.⁸⁶⁶

The usefulness of the Bureau's statistical reports could be much increased by a few additions to the schedules of inquiry and by the substitution of summaries for certain details. No distinction is at present made between the sexes of children under sixteen, or between youths of either sex and adults. The employers' reports are published by counties; there should be, in addition, a summary for the entire State by industries. The reports of factory inspection give details as to conditions observed and recommendations made for each establishment inspected. This information would be much more accessible if compressed into a well planned summary. The same remark applies to the Bureau's statistics of accidents. Thus the table of accidents in the twelfth biennial report (1906) is spread over fifteen pages and gives full details for each accident. The student must wade through these fifteen pages and make his own computations if he would arrive at any intelligible result. An analytical table giving the age and sex of

persons injured, and the causes, character and extent of injuries, would occupy two or three pages at most and would be far more informing.

A number of articles in the Bureau's reports are the result of special investigation by the Commissioner. Among the most valuable of these are the discussions of contract convict labor and of coal screens and the truck system in the report of 1885, the article on private employment offices in the report of 1891, and the records of joint trade agreements in the reports of 1903 and 1905. In some of the earlier reports topics which hardly fell within the appropriate sphere of the Bureau's work were treated at great length. Examples are the seventy pages given to a discussion of prohibition in the report of 1889, and the one hundred sixty pages devoted to agricultural depression in the report of 1891.

TABLE I—SUBJECTS TREATED IN THE REPORTS OF THE IOWA BUREAU OF LABOR STATISTICS

SUBJECTS	NUMBER OF PAGES IN EACH REPORT												
	1885	1887	1889	1891	1893	1895	1897	1899	1901	1903	1905	1906	
Entire number of pages in report...	398	416	413	279	349	195	177	107	598	608	460	272	
Wage earners' individual reports....	52	152	129		24	160			27	24	26	22	
Statistics of railroad employees		9	26	5			9	14	34	23	16	15	
Remarks and suggestions of wage-earners	25	23	24			12				18	14	13	
Labor organizations in Iowa.....	11					3	3		34	69	60		
Strikes and lockouts in Iowa	16	62	4		4		2		76				
Manual training and technical education	38			4	2		10	7	31				
Employers' statistical reports							40	46	114	68		45	
Farm labor and agricultural conditions.	7	6	22	166	12								
New industries for Iowa	10								18	66	28	30	
Immigration	5			3	3					12	51		
Factory inspection...									38	50	80	37	
Labor laws of Iowa..				28	7				13		25	2	
Classified wages....				31						40	44	69	
Child labor.....		13	4						2	5			
Co-operation and profit sharing.....	9						2	2	22				

Employment offices...				23		17	
Prohibition	2	4	70		6		
Manufactures of Iowa	7	15	4				
Joint trade agreements						113	84
School teachers.....	22			45			
Communitistic societies					13	18	
Convict labor.....	22	2					
Cost of living.....	10	7					
Mining industry.....	6		10				
Railway benefit asso-					82		
ciation							
Directory of Iowa em-							
ployees						45	
Pearl button industry					26		
Coal screens and the							
truck system.....	18						
Chinese labor.....				18			
Length of working day							
in the United States						16	
Canning industry....							9
Arbitration	7						

The reports of the Iowa Bureau of Labor Statistics are issued only every second year, so that, allowing for the delays of the State Printer, an interval of three years may elapse between the gathering of facts and their publication. Much of the information in the reports has thus lost its timeliness before it reaches the public. To the laboring man, especially, the value of industrial statistics very largely depends upon their recentness. He is far more interested in current than in past wages and hours of work. For these reasons the Commissioners several times have asked for legislative authority to publish a labor bulletin in which could be given timely discussions of industrial questions, the results of special investigations, and statistical and other information of current interest. Such bulletins are issued by Massachusetts, New York, and other States as well as by the United States Bureau of Labor. But the legislature of Iowa, with short-sighted economy, has steadily refused to make any provision for a similar publication.

Table II below shows eighteen of the most important recommendations for new legislation made by the Bureau, whereof eleven have been adopted in whole or in part, while seven have been rejected or ignored by the legislature. It is by no means meant to imply that the Bureau's recommendation

was the sole, or even the chief influence in securing such legislation, but merely to indicate the active support given by the Bureau to some of the most important labor laws enacted or proposed since its establishment. Officers of the Bureau were especially influential in securing the factory, fire-escape, and child labor laws.

TABLE II—RECOMMENDATIONS TO THE LEGISLATURE BY THE IOWA COMMISSION OF LABOR

RECOMMENDATIONS	IN WHAT REPORTS MADE	LAW ENACTED
Increase support of Bureau....	1885, 1887, 1891, 1893, 1902,	1891, 1904, 1907
Enact screen law.....	1885	1888
Enact truck law.....	1885, 1887	1888
Abolish contract system in prisons	1885, 1887	
Establish State Board of Arbi- tration	1885	1886 867
Enact bi-weekly wage law....	1887	1894
Establish labor day.....	1889	
Establish free employment bu- reau	1891, 1893, 1905	
Revise law governing the Bureau of Labor Statistics...	1895	1896
Require guards on dangerous machinery	1897, 1899, 1901	1902
Provide for State inspection of steam boilers.....	1897, 1899, 1901, 1903, 1905	
Require employers' reports with- in 20 days	1899	
Enact factory law.....	1901	1902
Enact fire escape law.....	1901, 1903	1902, 1904
Provide for factory inspection..	1901, 1903	1902, 1904
Enact child labor law.....	1901, 1903, 1905, 1906	1906
Require report of accidents to Bureau of Labor Statistics...	1903, 1905, 1906	
Provide penalty for removing guards from machinery.....	1905, 1906	

Five Commissioners have been appointed since the creation of the Bureau in 1884, the average term being nearly five years. All of the appointees have been taken from the ranks of organized labor. It follows that the officers of the Bureau without exception have been in sympathy with the aims and ideals of working people. Notwithstanding this fact the Bureau has never been guilty of offensive partisanship in the strife between employer and employed.

In conclusion it may be said without hesitation that the Iowa Bureau of Labor Statistics has justified its existence.

Early prejudice has largely been overcome. The Bureau now enjoys the confidence and support of organized labor and receives a considerable measure of coöperation from employers. The scope of its work has been greatly extended within the past few years, and the extent and value of its statistical reports have correspondingly increased. The work of the Bureau still is needlessly hampered and its usefulness impaired by lack of proper financial support.

AN APPENDIX
RECENT LABOR LEGISLATION

AN APPENDIX

RECENT LABOR LEGISLATION

The Thirty-third General Assembly which met in 1909, since the foregoing pages were written, greatly strengthened the child labor law, markedly improved the statutes affecting employers' liability, and made minor changes in various other departments of labor legislation.

THE CHILD LABOR LAW

By the legislation of 1909 the period of compulsory school attendance was raised to twenty-four weeks for all school districts and the board of school directors in any city of the first or second class (15,000 and 2,000 inhabitants, respectively) was authorized to require attendance for the entire time that the schools are in session.⁸⁶⁸ There is little doubt that the school boards, in most of the larger cities at least, will make use of this authority. Vigilant truant officers will thus have it in their power to prevent the worst evils of child labor.

Still more important is the amendment which empowers any officer charged with the enforcement of the child labor law "to demand of employers, proof of age of any child employed in their establishment; such proof shall be an authenticated birth record, and if there is no such record, then a baptismal record fully attested . . . and if there is no such record, a school record that will establish the age of the child, attested by a superintendent, principal, or teacher; where no such proof is obtainable, a parent's affidavit, together with affidavits made by two disinterested persons . . . establishing date of birth may be accepted, and if no such proof is furnished, such child shall forthwith be dismissed from his employment."⁸⁶⁹

The absence of such a provision was one of the chief de-

fects of the legislation of 1906. Evasion of a child labor law is always easy where the enforcing authority is required to produce positive proof of the age of each suspected child. On the other hand, when the burden of proof is put upon employers they are much more careful about employing children of doubtful age. As the law now stands, violations will be far more infrequent and detection and conviction much less difficult.

EMPLOYERS' LIABILITY LAW

The Assumption of Risk Act of 1907 was repealed and the following statute enacted in its stead:

In all cases where the property, works, machinery, or appliances of an employer are defective or out of repair, and where it is the duty of the employer from the character of the place, work, machinery or appliances to furnish reasonably safe machinery, appliances or place to work, the employe shall not be deemed to have assumed the risk, by continuing in the prosecution of the work, growing out of any defect as aforesaid, of which the employe may have had knowledge when the employer had knowledge of such defect, except when in the usual and ordinary course of his employment it is the duty of such employe to make the repairs, or remedy the defects. Nor shall the employe under such conditions be deemed to have waived the negligence, if any, unless the danger be imminent and to such extent that a reasonably prudent person would not have continued in the prosecution of the work; but this statute shall not be construed so as to include such risks as are incident to the employment. And no contract which restricts liability hereunder shall be legal or binding.⁸⁷⁰

This act is evidently more favorable to the employee than that of 1907. (1) It does away with the requirement of a written notice of defects which, in many cases, might have resulted in the discharge of the complaining employee. (2) It removes all doubt as to the effect of a contractual waiver of the employer's liability under the statute. (3) As the act stands it probably would not be necessary to show that the employer had actual knowledge of a given defect if, in the

exercise of reasonable care, he, or his vice-principal, would have known of it. The statute has not been judicially construed, so that its precise effects cannot be determined. It clearly supersedes the Common Law rules as to protest and promise to repair; but apparently it does not wholly abrogate the doctrine of the assumption of extraordinary risks. The language of the act does not embrace unsafe methods of work, nor does it cover defects in appliances, etc., of which the employer has not actual or constructive knowledge. None the less the act of 1909 does away with the harshest features of the Common Law doctrine. The assumption of the ordinary risks of the employment is, of course, not affected by the statute.

Equally important with the new Assumption of Risk Act is the following amendment to the Railway Liability Law:

That in all actions hereafter brought against any such corporation [corporation operating a railway] to recover damages for the personal injury or death of any employe under or by virtue of the provisions of this section, [*Code of 1897*, Section 2071, the railway liability statute] the fact that the employe may have been guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employe; provided, that no such employe who may be injured or killed shall be held to have been guilty of contributory negligence in any case where the violation by such common carrier or corporation of any statute enacted for the safety of employes contributed to the injury or death of such employe; nor shall it be any defense to such action that the employe who was injured or killed assumed the risks of his employment.⁸⁷¹

It will be seen that the amendment establishes the rule of comparative negligence as to cases within the statute, abolishes contributory negligence altogether as a defense to suits based on violations of the safety laws by the railway companies, and abrogates the Common Law doctrine of assumption of risk to the same extent that the earlier statute abrogates the fellow servant doctrine. It is, of course, too early to speak of the

amended act, since it has not yet been construed by the courts. Undoubtedly, however, the amendment applies to the same classes of injuries as the earlier acts — that is, to injuries caused by “the use and operation of a railway”, and sustained by persons exposed, by reason of their employment, to the peculiar hazards arising from such use and operation. Next to the fellow-servant doctrine, contributory negligence and assumption of risk are the principal defenses in employers’ liability cases. The amendment of 1909, therefore, immensely enlarges the remedies afforded by the statute to railway employees.

MINOR LEGISLATION

As was forecasted (above p. 26) the cooperage concern secured an act authorizing the State Board of Control to contract for the employment of not more than fifty inmates of the State Reformatory at Anamosa in the making of butter tubs, the contract to expire not later than January 1, 1915.⁸⁷² The contract thus authorized was promptly entered into by the Board of Control. In view of conclusions already reached the extension of the cooperage contract can but be regarded as a backward step.

An amendment to the Railway Safety Appliance Law provides that all locomotives used in switching or yard service, except at stations where regular switch engines are not employed, shall be equipped in both front and rear, with head-light, foot-board, and grab rail.⁸⁷³ The switchman’s calling is an extra-hazardous one at best, but its perils are much increased by the use of ordinary road locomotives in switching service — a practice which was formerly common and which the above law was intended to minimize.

Additional provision for the comfort of street car motor-men was made by an act which requires all motor street cars, except trailers, used for the transportation of passengers and not already required by law to carry enclosed vestibules to be equipped with transparent shields.⁸⁷⁴

Lastly, a second factory inspector was added to the inade-

quate force of the Bureau of Labor Statistics.⁸⁷⁵ Three men now devote their entire time to the field work of the Bureau. The force is still too small, but when it is called to mind that factory inspection in Iowa began only ten years ago its growth will appear an augury of better things to come.

The action of the Thirty-third General Assembly emphasizes a striking and grateful feature of the recent social history of Iowa — the growing volume and increasingly humanitarian character of labor legislation.

NOTES AND REFERENCES

NOTES AND REFERENCES

INTRODUCTION

¹ The writer has been unable to find any printed records of the Knights of Labor in Iowa. For the statements in the text he is indebted to Mr. Edwin Perry, of Oskaloosa, formerly a State officer of the Knights and now (1907) Secretary of District Thirteen, United Mine Workers of America.

² A brief history of the Iowa Federation of Labor is contained in the *Tribune* (Cedar Rapids) for June 5, 1908. The annual proceedings have been printed from the time of their first organization. An almost complete set of the *Proceedings* is found in the library of The State Historical Society of Iowa.

³ For an example see the history of the Temple Amendment, page 181 of this volume.

CHAPTER II

⁴ *Territorial Laws of Michigan*, Vol. II, p. 331.

⁵ *Territorial Laws of Michigan*, Vol. II, p. 727.

⁶ *Territorial Laws of Michigan*, Vol. III, p. 1189.

⁷ *United States Statutes at Large*, Vol. V, p. 10.

⁸ *United States Statutes at Large*, Vol. V, p. 235.

⁹ *Laws of Iowa*, 1838-1839, p. 327.

¹⁰ *Laws of Iowa*, 1839-1840, p. 78.

¹¹ *Revised Statutes of Iowa*, 1842-1843, p. 380.

¹² *Code of 1851*, pp. 154-159.

¹³ *Code of 1851*, Section 981.

¹⁴ *Code of 1851*, Section 982.

¹⁵ *Code of 1851*, Sections 988-995.

- ¹⁶ *Code of 1851*, Sections 1005-1007.
- ¹⁷ *Code of 1851*, Section 1009.
- ¹⁸ *Code of 1851*, Section 1010.
- ¹⁹ *Laws of Iowa*, 1856-1857, p. 377.
- ²⁰ *Laws of Iowa*, 1858, p. 46.
- ²¹ *Revision of 1860*, Section 1846.
- ²² *Revision of 1860*, Section 1871.
- ²³ *Revision of 1860*, Section 1847.
- ²⁴ *Revision of 1860*, Section 1870.
- ²⁵ *Revision of 1860*, Section 1854.
- ²⁶ *Revision of 1860*, Section 1872.
- ²⁷ *Laws of Iowa*, 1862, p. 127; 1870, p. 180; (Public), 1872, p. 13; (Public), 1874, p. 33.
- ²⁸ *Laws of Iowa* (Public), 1874, p. 36.
- ²⁹ *Laws of Iowa*, 1876, p. 84.
- ³⁰ *Laws of Iowa*, 1884, p. 185.
- ³¹ *Breneman vs. Harvey*, 70 Iowa 479.
Loring vs. Small, 50 Iowa 271.
Whiting vs. Story County, 54 Iowa 81.
- ³² *Code of 1897*, Sections 3102-3104.
- ³³ *Laws of Iowa*, 1890, p. 72.
- ³⁴ *Laws of Iowa*, 1894, p. 31.
- ³⁵ *Thompson vs. Spencer*, 95 Iowa 265. For the existing law see the *Code of 1897*, pp. 1097-1115; also Traxler's *A Treatise on The Mechanics' Liens of the State of Iowa*, Minneapolis, 1901.
- ³⁶ *Code of 1897*, Section 3089.
- ³⁷ Traxler's *A Treatise on The Mechanics' Liens of the State of Iowa*, p. 44.
- ³⁸ *Brown vs. Wyman*, 56 Iowa 452.
- ³⁹ *Kiene vs. Hodge*, 90 Iowa 212.
- ⁴⁰ *Coenen vs. Staub*, 74 Iowa 32.

- ⁴¹ *Hoppes vs. Baie*, 105 Iowa 648.
- ⁴² *Cotes & Davis vs. Shorey*, 8 Iowa 416.
Neilson vs. Iowa Eastern Railway Company, 51 Iowa 184.
Chase vs. Garver Coal & Mining Company, 90 Iowa 25.
- ⁴³ *Jones vs. Swan and Company*, 21 Iowa 181; *Stockwell vs. Carpenter*, 27 Iowa 119.
- ⁴⁴ *Neilson vs. Iowa Eastern Railway Company*, 51 Iowa 184.
- ⁴⁵ *Code of 1897*, Section 3089; *Mornan vs. Carroll*, 35 Iowa 22.
- ⁴⁶ *Sandval vs. Ford*, 55 Iowa 461.
- ⁴⁷ *Traxler's A Treatise on The Mechanics' Liens of the State of Iowa*, p. 59.
- ⁴⁸ *Traxler's A Treatise on The Mechanics Liens of the State of Iowa*, p. 58-59.
- ⁴⁹ *Mornan vs. Carroll*, 35 Iowa 22.
- ⁵⁰ *Code of 1897*, Section 3092.
- ⁵¹ *Code of 1897*, Section 3095.
- ⁵² *Code of 1897*, Section 3447, sub-division 4; *Johnson vs. Otto*, 105 Iowa 605.
- ⁵³ According to Justice Given, in *Reynolds vs. Black*, 91 Iowa 1.
- ⁵⁴ *Laws of Iowa*, 1890, p. 73; *Code of 1897*, Sections 4019-4020.
- ⁵⁵ *Reynolds vs. Black*, 91 Iowa 1.
- ⁵⁶ *Code of 1851*, Section 1901; *Code of 1873*, Section 3074; *Code of 1897*, Section 4011.
- ⁵⁷ *Code of 1851*, Section 1901; *Code of 1873*, Section 3075; *Code of 1897*, Section 4013.
- ⁵⁸ *House File*, No. 51, 30th General Assembly (1904).
- ⁵⁹ *Journal of the House of Representatives*, 1904, p. 272.
- ⁶⁰ *Laws of Iowa*, 1904, p. 117.
- ⁶¹ *Laws of Iowa*, 1894, p. 97; *Code of 1897*, Section 4018.
- ⁶² *House File*, No. 92, 30th General Assembly (1904).
- ⁶³ *Journal of the House of Representatives*, 1904, pp. 129, 291, 292, 332, 333.

⁶⁴ *House File*, No. 317, 30th General Assembly (1904).

⁶⁵ *Journal of the House of Representatives*, 1904, pp. 429, 517, 666, 668, 669; *Journal of the Senate*, 1904, pp. 657, 672, 717, 967.

⁶⁶ *Council Bluffs Nonpareil*, May 8-12, 1905.

⁶⁷ *Official Directory of the Iowa Federation of Labor*, 1906, p. 137; Statement of Burt T. Jackson of Cedar Rapids, President of the Iowa State Retail Merchants' Association.

⁶⁸ *House File*, No. 183, 31st General Assembly, 1906.

⁶⁹ *Journal of the House of Representatives*, 1906, pp. 280, 548, 652; *Journal of the Senate*, 1906, pp. 630, 641, 1055-1056.

⁷⁰ *House Files*, Nos. 76, 82, 132; *Senate File*, No. 86, 32nd General Assembly (1907).

⁷¹ *Journal of the House of Representatives*, 1907, p. 906.

⁷² *Journal of the Senate*, 1907, p. 1220.

⁷³ *House File*, No. 175, 31st General Assembly (1906).

⁷⁴ *Journal of the House of Representatives*, 1906, pp. 260, 465, 486, 1006; *Journal of the Senate*, 1906, pp. 428, 618, 887.

⁷⁵ Vote in the House, 66 to 2; in the Senate, 27 to 0.

⁷⁶ *Laws of Iowa*, 1906, p. 108.

⁷⁷ The methods employed by the loan sharks are well illustrated by the following incident:— L——— M———, a fireman on the Chicago, Milwaukee and St. Paul Railway, running out of Sioux City, fell behind on account of the sickness and death of a child. Seeing a "money to loan" advertisement in a street car he called on the advertiser, and gave him a note for \$35, with interest at 8% for six weeks, secured by a chattel mortgage on household furniture worth three or four hundred dollars. He actually received but \$24, \$11 being deducted as commission and charges. By successive renewals, *without any additional advance by the lender*, the debt grew to \$108 in eight months' time. The mortgage was then foreclosed and the household goods bought in for some fifty dollars by an associate of the loan company. An attempt was then made to attach the fireman's unpaid wages, whereupon he was discharged by the railway company.

The writer has been told of many similar incidents in various Iowa cities.

⁷⁸ *Code of 1851*, Section 1490; *Code of 1873*, Section 2240; *Code of 1897*, Section 3191.

⁷⁹ *Code of 1873*, Section 2211; *Code of 1897*, Section 3162.

CHAPTER III

⁸⁰ *Territorial Laws of Michigan*, Vol. I, p. 469.

⁸¹ *Territorial Laws of Michigan*, Vol. II, p. 384.

⁸² *Laws of Iowa*, 1838-1839, p. 365.

⁸³ *Laws of Iowa*, 1840-1841, p. 81.

⁸⁴ See *Report of the Warden of the Penitentiary* in the *Journal of the Council*, 1845, p. 190.

⁸⁵ *Laws of Iowa*, 1845-1846, p. 18.

⁸⁶ *Laws of Iowa*, 1848-1849, p. 82.

⁸⁷ *Journal of the Senate*, 1854-1855, Appendix, pp. 23-25.

⁸⁸ *Report of the Warden of the Penitentiary*, 1865, pp. 11-16.

⁸⁹ *Report of the Warden of the Penitentiary*, 1869, pp. 18-20.

⁹⁰ *Laws of Iowa* (Private), 1874, p. 31.

⁹¹ *Report of the Warden of the Penitentiary*, 1875, Appendix.

⁹² *Iowa Documents*, 1878, Vol. II, No. 15, pp. 57-63.

⁹³ *Laws of Iowa*, 1876, p. 82.

⁹⁴ *Report of the Warden of the Penitentiary*, 1877, Appendix.

⁹⁵ *Report of the Warden of the Penitentiary*, 1879, p. 24.

⁹⁶ *Report of the Warden of the Penitentiary*, 1881, p. 12.

⁹⁷ *Report of the Warden of the Penitentiary*, 1881, p. 9.

⁹⁸ *Report of the Warden of the Penitentiary*, 1883, p. 11.

⁹⁹ *Report of the Warden of the Penitentiary*, 1889, p. 8.

¹⁰⁰ *Report of the Warden of the Penitentiary*, 1895, pp. 7-8.

¹⁰¹ These contracts have not been published, but are on file in the office of the State Board of Control at Des Moines.

- ¹⁰² *Report of the Warden of the Penitentiary*, 1895, pp. 7-8.
- ¹⁰³ *Report of the Warden of the Penitentiary*, 1901, p. 5.
- ¹⁰⁴ Statement of Mr. A. L. Urick, President of the Iowa Federation of Labor.
- ¹⁰⁵ *Laws of Iowa*, 1900, p. 96.
- ¹⁰⁶ Records in the office of the Clerk of the Penitentiary at Fort Madison.
- ¹⁰⁷ Correspondence in the office of the State Board of Control.
- ¹⁰⁸ *Laws of Iowa* (Public), 1872, p. 49.
- ¹⁰⁹ Contracts on file in the office of the State Board of Control.
- ¹¹⁰ Records in the office of the Clerk of the Reformatory.
- ¹¹¹ *Laws of Iowa*, 1876, p. 32; *Code of 1897*, Section 5707.
- ¹¹² *Laws of Iowa*, 1898, p. 62.
- ¹¹³ Statement of Mr. A. L. Urick, President of the Iowa Federation of Labor.
- ¹¹⁴ *Laws of Iowa*, 1900, p. 96.
- ¹¹⁵ *Laws of Iowa*, 1907, p. 193.
- ¹¹⁶ Records in the office of the Clerk of the Reformatory at Anamosa.
- ¹¹⁷ Records in the office of the Clerk of the Penitentiary.
- ¹¹⁸ *Report of the Warden of the Penitentiary at Anamosa*, 1893, p. 9.
- ¹¹⁹ *Report of the Warden of the Penitentiary at Anamosa*, 1899, p. 42. The industries proposed were binder-twine, hollow-ware, and manufactures for State institutions.—See *Iowa Documents*, 1900, Vol. VI, pp. 131-148.
- ¹²⁰ *Senate File*, No. 96, and *House File*, No. 160, 32nd General Assembly (1907).
- ¹²¹ *Official Directory of the Iowa Federation of Labor*, 1907, p. 137; 1908, pp. 87, 127.

CHAPTER IV

- ¹²² For the early history of the Dubuque lead mines, see *House*

Executive Documents, 26th Congress, 1st session, Vol. VI (Owen's Report); *Senate Executive Documents*, 30th Congress, 1st session, No. 5730; H. R. Schoolcraft's *Narrative Journal of Travels*; also *History of Dubuque County*, and the *Iowa Geological Survey*, Vol. VI, pp. 14-18; Vol. X, pp. 480-489; *Johns Hopkins University Studies*, Series 2, No. VII, pp. 347-350.

¹²³ *Iowa Geological Survey*, Vol. II, pp. 38, 521-522.

¹²⁴ *Iowa Geological Survey*, Vol. II, p. 38.

¹²⁵ *Iowa Geological Survey*, Vol. II, p. 522.

¹²⁶ *Iowa Geological Survey*, Vol. II, p. 523.

¹²⁷ Census Year.

¹²⁸ Year ending June 30. From *Reports of Iowa State Mine Inspectors*.

¹²⁹ *Iowa Geological Survey*, Vol. XVII, p. 16.

¹³⁰ *Iowa Geological Survey*, Vol. XVII, p. 13.

¹³¹ See pp. 8, 63.

¹³² *Laws of Iowa* (Public), 1872, p. 53.

¹³³ *Laws of Iowa* (Public), 1874, p. 22.

¹³⁴ *Laws of Iowa*, 1880, p. 196.

¹³⁵ *Laws of Iowa*, 1884, p. 23; *Report of Iowa State Mine Inspector*, 1883, pp. 78-90; *Iowa State Register*, July 26, August 15-16, 1883; personal letter to writer from Edwin Perry, now (1907) Secretary-Treasurer of District Thirteen, United Mine Workers of America, and formerly State Secretary of the Knights of Labor and member of their legislative committee. Accounts should be found in the *Oskaloosa Messenger* of July 10-12, 1883, but this paper the writer has not been able to find.

¹³⁶ *Laws of Iowa*, 1884, p. 23.

¹³⁷ *Laws of Iowa* (Public), 1872, p. 53.

¹³⁸ *Laws of Iowa* (Public), 1874, p. 22.

¹³⁹ Polk, Mahaska, Monroe, Wapello, Appanoose, and perhaps others. See *Minute Books* of the County Board of Supervisors, 1873-1880.

¹⁴⁰ *Laws of Iowa*, 1880, p. 196.

¹⁴¹ *Laws of Iowa*, 1884, p. 23.

¹⁴² *Report of State Mine Inspector*, 1885, p. 63.

¹⁴³ *Laws of Iowa*, 1886, p. 161.

¹⁴⁴ *Laws of Iowa*, 1888, p. 74.

¹⁴⁵ *Laws of Iowa*, 1902, p. 62.

¹⁴⁶ The number of mines in each district in 1906 was as follows:

District Number 1	149
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District Number 2	65
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District Number 3	95
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Entire State	309
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See *Report of Iowa State Mine Inspectors*, 1906, p. 6.

¹⁴⁷ *Laws of Iowa*, 1902, p. 62.

¹⁴⁸ *Laws of Iowa*, 1907, p. 129; *Code of Iowa, Supplement of 1907*; Section 2483.

¹⁴⁹ *Laws of Iowa*, 1880, p. 197.

¹⁵⁰ *Laws of Iowa*, 1882, p. 169.

¹⁵¹ *Laws of Iowa*, 1906, p. 5.

¹⁵² *Laws of Iowa*, 1906, pp. 2-3.

¹⁵³ *Laws of Iowa*, 1880, pp. 197-8.

¹⁵⁴ *Code of 1897*, Section 2485.

¹⁵⁵ *Laws of Iowa* (Public), 1872, p. 53.

¹⁵⁶ *Laws of Iowa* (Public), 1874, p. 22.

¹⁵⁷ *Laws of Iowa*, 1880, p. 198.

¹⁵⁸ *Report of Iowa State Mine Inspector*, 1882-1883, p. 93.

¹⁵⁹ *Laws of Iowa*, 1884, p. 25.

¹⁶⁰ *Laws of Iowa*, 1888, p. 79.

¹⁶¹ *Laws of Iowa*, 1880, p. 198.

¹⁶² *Laws of Iowa*, 1890, p. 71.

¹⁶³ *Code of 1897*, Section 2487.

¹⁶⁴ *Laws of Iowa* (Public), 1874, p. 24.

¹⁶⁵ *Laws of Iowa*, 1880, p. 198.

¹⁶⁶ *Code of 1897*, Section 2489.

¹⁶⁷ *Laws of Iowa* (Public), 1874, p. 24.

¹⁶⁸ Statement of an ex-County Mine Inspector.

¹⁶⁹ *Laws of Iowa*, 1880, p. 199.

¹⁷⁰ *Laws of Iowa*, 1884, p. 26.

¹⁷¹ *Laws of Iowa*, 1884, p. 27.

¹⁷² *Crabell vs. Wapello Coal Company*, 68 Iowa 751.

¹⁷³ The record for the biennial period 1904-1905 is as follows:

	Killed	Injured
Caught by cage	3	10
Struck by material falling down shaft	2	2
Hurt by falling into shaft	1	0
Total number killed or injured in hoisting ways..	6	12

¹⁷⁴ *Laws of Iowa*, 1880, p. 199.

¹⁷⁵ *Code of 1897*, Section 2489.

¹⁷⁶ *Laws of Iowa*, 1900, p. 61.

¹⁷⁷ *Laws of Iowa*, 1880, pp. 199-200; *Laws of Iowa*, 1884, pp. 27-28; *Code of 1897*, Sections 2489 and 2491.

¹⁷⁸ *Code of 1897*, Section 2489.

¹⁷⁹ *Corson vs. Coal Hill Coal Company*, 101 Iowa 224; *Taylor vs. Star Coal Company*, 110 Iowa 40; *Cushman vs. Carbondale Fuel Company*, 116 Iowa 618; *Wahlquist vs. Maple Grove Coal & Mining Company*, 116 Iowa 720. There are many other cases holding to same effect.

¹⁸⁰ *Laws of Iowa* (Public), 1872, p. 52.

¹⁸¹ *Laws of Iowa* (Public), 1874, p. 22.

¹⁸² Statements of former County Mine Inspectors and other veteran miners.—*Report of Iowa State Mine Inspector*, 1883, p. 49; 1885, pp. 30-35.

¹⁸³ *Laws of Iowa*, 1880, p. 198.

¹⁸⁴ *Report of Iowa State Mine Inspector*, 1883, pp. 93-94.

¹⁸⁵ *Laws of Iowa*, 1884, p. 26.

¹⁸⁶ *Code of 1897*, Section 2488.

¹⁸⁷ *Report of Iowa State Mine Inspectors*, 1906, pp. 16-17.

¹⁸⁸ *Report of Iowa State Mine Inspectors*, 1883, p. 48.

¹⁸⁹ Compiled from details by counties in the *Report of Iowa State Mine Inspectors*, 1906. It will be observed that the total number of mines (314) differs from that (309) given on pp. 34, 215. The discrepancy is between the details by counties and the summary in the Inspector's

¹⁹⁰ *Laws of Iowa*, 1898, p. 38.

¹⁹¹ Division of the main air current at the bottom of the down-cast.

¹⁹² At the mouth of abandoned rooms and entries.

¹⁹³ *Reports of the Iowa State Mine Inspectors*, 1905, p. 19; 1906, pp. 16-17; also details by counties.

¹⁹⁴ *Report of Iowa State Mine Inspectors*, 1895, pp. 42, 76.

¹⁹⁵ *Code of 1897*, Section 2493.

¹⁹⁶ *Laws of Iowa*, 1896, p. 94.

¹⁹⁷ *Laws of Iowa*, 1898, p. 38.

¹⁹⁸ *Reports of Iowa State Mine Inspectors*, 1891, pp. 129-130; 1893, pp. 29, 60; 1895, p. 35.

¹⁹⁹ *Report of the Commission on Explosions in the Coal Mines of Iowa*. This *Report* is printed only in pamphlet form.

²⁰⁰ *Laws of Iowa*, 1902, p. 63.

²⁰¹ *House File*, No. 36, 31st General Assembly (1906); *House File*, No. 212, 32nd General Assembly (1907).—See *House Journal*, 1906 and 1907, *passim*.

²⁰² The Des Moines Agreement for 1908-1909 is published in a pamphlet of thirty-seven pages.

²⁰³ *Proceedings of Tenth Annual Convention* (1907) District Thirteen, United Mine Workers of America, p. 8; *Proceedings of the Eleventh Convention* (1908), p. 13.

²⁰⁴ Beard's *Mine Gases and Explosions*, pp. 192-194.

²⁰⁵ *Reports of State Mine Inspectors*, 1891, pp. 129-130; 1901, pp. 32-33.

²⁰⁶ The italics are the writer's.

²⁰⁷ *Laws of Iowa*, 1907, p. 129.

²⁰⁸ *Senate File*, No. 81, 32nd General Assembly (1907); *Journals of the Senate and House of Representatives*, passim.

²⁰⁹ *Report of Iowa State Mine Inspectors*, 1891, p. 92.

²¹⁰ *Laws of Iowa*, 1900, p. 61.

²¹¹ *Report of Iowa State Mine Inspectors*, 1901, pp. 52-53, 71-72.

²¹² *Laws of Iowa*, 1874, p. 24.

²¹³ *Laws of Iowa*, 1880, p. 199.

²¹⁴ *Code of 1897*, Section 2491.

²¹⁵ *Laws of Iowa* (Public), 1874, p. 23.

²¹⁶ *Laws of Iowa*, 1880, p. 199.

²¹⁷ *Laws of Iowa*, 1888, p. 80.

²¹⁸ *Code of 1897*, Section 2492.

²¹⁹ *Report of Iowa State Mine Inspector*, 1885, pp. 30-32.

²²⁰ *Laws of Iowa*, 1888, p. 79.

²²¹ *Code of 1897*, Section 2488.

²²² *Laws of Iowa*, 1884, p. 28.

²²³ *Code of 1897*, Section 2491.

²²⁴ *Laws of Iowa* (Public), 1872, p. 53.

²²⁵ *Laws of Iowa* (Public), 1874, p. 24.

²²⁶ *Laws of Iowa*, 1884, p. 27.

²²⁷ *Code of 1897*, Section 2492.

²²⁸ *Mosgrove vs. Zimbleman Coal Company*, 110 Iowa 169.

²²⁹ *Laws of Iowa* (Public), 1874, p. 23.

²³⁰ *Laws of Iowa*, 1880, p. 201.

²³¹ *Laws of Iowa*, 1884, p. 25; *Code of 1897*, Section 2486.

²³² *Laws of Iowa*, 1900, p. 61.

²³³ *Laws of Iowa* (Public), 1874, p. 24.

²³⁴ *Laws of Iowa*, 1880, p. 197.

²³⁵ *Laws of Iowa*, 1884, p. 24.

²³⁶ *Code of 1897*, Section 2482.

²³⁷ *Laws of Iowa*, 1880, p. 197; *Code of 1897*, Sections 2482 and 516.

²³⁸ Many specimen verdicts are printed in the *Reports of the Iowa State Mine Inspectors*.

²³⁹ Years ending June 30th. Table compiled from *Reports of Iowa State Mine Inspectors*.

²⁴⁰ *Reports of Iowa State Mine Inspectors* and *Bulletin* No. 333 of the United States Geological Survey.

²⁴¹ *Bulletin* No. 333 of the United States Geological Survey, *passim*.

²⁴² Compiled from detailed returns in *Reports of State Mine Inspectors*.

²⁴³ See p. 8.

²⁴⁴ *Laws of Iowa*, 1890, p. 72.

²⁴⁵ *Iowa State Mine Inspector's Reports*, 1889, pp. 144-146.

²⁴⁶ *Laws of Iowa*, 1880, p. 200.

²⁴⁷ *Laws of Iowa*, 1888, p. 76; *Code of 1897*, Section 2490.

²⁴⁸ *Laws of Iowa*, 1888, p. 77.

²⁴⁹ See, for examples, the *Report of the State Mine Inspector* for 1883, p. 76 ff.

²⁵⁰ The italics are the writer's.

²⁵¹ "Slack" was struck from the list of impurities in 1900.—*Laws of Iowa*, 1900, p. 61.

²⁵² *Laws of Iowa*, 1888, p. 77; *Code of 1897*, Section 2490.

²⁵³ *Journal of the Senate*, 1888, p. 844.

²⁵⁴ *Journal of the House*, 1888, pp. 905-906; *Journal of the Senate*, 1888, p. 845.

²⁵⁵ *Code of 1897*, Section 2490.

²⁵⁶ *Report of the Iowa State Mine Inspector*, 1883, pp. 85, 91.

²⁵⁷ A typical example of these checks reads as follows:

[Front]

This is not intended to be used as money. Western Supply Co. Pay the bearer on demand in Merchandise Five Cents. Ottumwa, Iowa, March 31st, 1883. No. G 5012.

Whitebreast Company.

T. C. MAINE, Sec'y.

[Back]

Accepted. Redeemable in Merchandise on demand. 5 cents.

D. A. TELFER, Sec.

See *Report of the Iowa Bureau of Labor Statistics*, 1885, pp. 168-170, 217-225; 1887, p. 188; 1889, pp. 403-404.

²⁵⁸ See *Senate Files*, Nos. 5, 17, 332, and *House Files*, Nos. 20, 176, 186, for the year 1886.

²⁵⁹ *Laws of Iowa*, 1888, p. 78.

²⁶⁰ *Journal of the House of Representatives*, 1888, p. 663; cf. *Journal of the Senate*, 1888, p. 847.

²⁶¹ *Code of 1897*, Section 2490.

²⁶² There is some difference of opinion upon this point. The statement in the text is supported by the testimony of State Mine Inspectors and officials of the United Mine Workers.

²⁶³ *Journal of the House of Representatives*, 1888, pp. 658-663.

²⁶⁴ *Journal of the Senate*, 1888, p. 847.

²⁶⁵ *Report of the Iowa Bureau of Labor Statistics*, 1887, pp. 406-408.

²⁶⁶ The italics are the writer's.

²⁶⁷ *Laws of Iowa*, 1894, p. 95.

²⁶⁸ *Laws of Iowa*, 1900, p. 61.

²⁶⁹ See *Journal of the House of Representatives*, 1894, p. 699.

²⁷⁰ *Mitchell vs. Burwell*, 110 Iowa 10.

²⁷¹ For an account of the gypsum deposits of Iowa and their development up to 1901, see Keyes's *The Gypsum Deposits of Iowa* in the *Iowa Geological Survey*, Vol. III, pp. 257-304; and Wilder's

The Geology of Webster County in the Iowa Geological Survey, Vol. XII, pp. 99-127, 138-167.

²⁷² *Iowa Geological Survey*, Vol. III, p. 260.

²⁷³ *Iowa Geological Survey*, Vol. XII, p. 145.

²⁷⁴ *Iowa Geological Survey*, Vol. III, p. 299.

²⁷⁵ *Iowa Geological Survey*, Vol. XVII, p. 21.

²⁷⁶ *Iowa Geological Survey*, Vol. XII, p. 140.

²⁷⁷ *Iowa Geological Survey*, Vol. III (1893), p. 300.

²⁷⁸ *Iowa Geological Survey*, Vol. XII, p. 146.

²⁷⁹ Used to obtain the top rock. But where the overlying land is unusually valuable this rock is left standing.

²⁸⁰ See the *Report* of Commissioner of Labor Brigham and State Mine Inspector Sweeney in the *Journal of the Senate*, 1906, pp. 429-433. The statements in the text relating to present conditions at the gypsum mines are based on their report except as otherwise noted.

²⁸¹ Statements to writer by employees in the mines.

²⁸² *Senate File*, No. 193, 30th General Assembly.

²⁸³ The vote stood: yeas, 44, nays, none.—*Journal of the Senate*, 1904, pp. 255-256.

²⁸⁴ *Journal of the House of Representatives*, 1904, pp. 534, 621, 661, 830-831, 841-842; *Official Directory of the Iowa Federation of Labor*, 1904, p. 195.

²⁸⁵ *Journal of the Senate*, 1904, pp. 1075, 1186; *Journal of the House of Representatives*, 1904, pp. 1187, 1220.

²⁸⁶ Statements to writer by ex-members of the United Gypsum Workers.

²⁸⁷ The report is printed in the *Journals* of the House and Senate, 1906.

²⁸⁸ *House File*, No. 371, 32nd General Assembly.

CHAPTER V

²⁸⁹ *Laws of Iowa*, 1878, p. 67.

²⁹⁰ See Table V, p. 90.

²⁹¹ See p. 89.

²⁹² Compiled by the writer from detailed returns of the several railway companies in the annual reports of the Iowa Railroad Commissioners.

²⁹³ "Getting on and off moving engines and cars," 1878-1888; "at stations", 1889-1892.

²⁹⁴ Not separately reported, 1889-1892.

²⁹⁵ Separately reported by Commissioners, 1889-1892; computed by the writer for earlier years. For these years, at least, some accidents were probably referred to "other causes" which were in fact due to the operation of trains and *vice versa*.

²⁹⁶ Includes engineers, firemen, conductors and brakemen.

²⁹⁷ *Report of the Iowa Railroad Commissioners*, 1884, p. 39.

²⁹⁸ *Report of the Iowa Railroad Commissioners*, 1885, pp. 92, 93.

²⁹⁹ *Report of the Iowa Railroad Commissioners*, 1887, p. 63.

³⁰⁰ See the excellent articles in the annual *Reports of the Iowa Railroad Commissioners* for 1884, pp. 39-41; 1885, pp. 92-93; 1886, pp. 46-48; 1887, pp. 62-70; 1889, pp. 46-47. These articles are all by Commissioner Coffin of Fort Dodge.

³⁰¹ See above, note 300.

³⁰² See *House Files*, Nos. 226, 300, 305, 388, and *Senate Files*, Nos. 365, 396 of the 21st General Assembly (1886); also *House Files*, Nos. 296, 432, 521, 22nd General Assembly (1888).

³⁰³ *Journal of the House of Representatives*, 1890, pp. 327-328.

Journal of the Senate, 1890, pp. 491-492; the *Iowa State Register*, March 2, 1890; and the *Annals of Iowa*, Third Series, Vol. V, pp. 561-582. The article in the *Annals* is by Mr. L. S. Coffin.

³⁰⁴ *Laws of Iowa*, 1890, p. 31.

³⁰⁵ *Report of the Iowa Railroad Commissioners*, 1889, p. 47 d.

³⁰⁶ *Laws of Iowa*, 1892, p. 34.

³⁰⁷ Section five of the law of 1890 requires all railroad companies to report annually to the State Board of Railroad Commissioners the number of locomotives and cars used in Iowa, the number equipped with automatic power brakes and with automatic safety

couplers, and the kinds of brakes and couplers used, with the number of each kind.

³⁰⁸ The average number of employees from 1878 to 1889 was 22,240; from 1901 to 1906, the number was 40,267.— See Table V.

³⁰⁹ *Report of the Iowa Railroad Commissioners*, 1884, p. 39; 1906, p. 6. The percentages were computed by the writer. For an explanation of certain discrepancies between the table and the Commissioners' figures see notes to Table V in this volume.

³¹⁰ These figures are taken from the detailed returns by railways.

³¹¹ See President Harrison's message to Congress, Dec. 3, 1889, in Richardson's *Messages and Papers of the Presidents*, Vol. IX, p. 51. During the twelve months ending June 30, 1891, casualties to trainmen in Iowa were reported as follows:

	Killed	Injured
Coupling and uncoupling cars.....	12	193
Falling from trains.....	19	56
Overhead obstructions	4	15
Other causes	10	98

Casualties to trainmen from coupling and uncoupling cars and from overhead obstructions would fall exclusively, and those due to falling from trains almost exclusively, upon brakemen and conductors, chiefly, of course, upon the former. These casualties total 35 deaths and 264 injuries. There were, besides, two brakemen killed and ten brakemen or conductors injured from miscellaneous causes. Adding a fair proportion of accidents due to derailments, collisions and getting on and off trains in motion, we have not less than forty fatalities and two hundred and eighty injuries suffered by these two classes of employees in a single year. Now, there were employed upon all the railways of the State in 1891, 2085 brakemen and 993 conductors, an aggregate of 3078. The annual loss per thousand would thus be, for both classes, 13 killed and 90 injured. For brakemen alone these rates would be considerably higher. It is notable that the Fourth Iowa Cavalry, one of the famous "fighting regiments" of the Civil War, which took part in sixty-two engagements and captured nearly three thousand prisoners, had but 52 men killed and 160 wounded in action during four years of service, an annual rate of 13 killed and 40 wounded. The average

strength of this regiment was somewhat more than one thousand.—Scott's *The Story of a Cavalry Regiment*, pp. 575-576.

It would appear that "braking" on an Iowa railroad in 1891 was rather more perilous to life and limb than the cavalry service during the Civil War.

³¹² In 1878, 488 of the 545 passenger cars and 364 of the 976 locomotives used in Iowa were thus equipped.—*Report of the Iowa Railroad Commissioners*, 1878, pp. 96-97.

³¹³ There was an important series of such experiments at Burlington, Iowa, in the summer of 1886, and the spring of 1887.—*Reports of the Iowa Railroad Commissioners*, 1886, p. 49; 1887, p. 64.

³¹⁴ *Report of the Iowa Railroad Commissioners*, 1885, pp. 94-96. For other articles by Mr. Coffin see the *Reports* for 1886, 1887, and 1889.

³¹⁵ See Table III, p. 84 of this volume.

³¹⁶ *Laws of Iowa*, 1890, p. 31.

³¹⁷ Changed to 1895 by law of 1892.—*Laws of Iowa*, 1892, p. 35.

³¹⁸ *United States Statutes at Large*, Vol. XXVII, p. 531.

³¹⁹ The casualties to brakemen are not separately reported by the Railroad Commissioners. Assuming, however, that all accidents from falling from trains are suffered by brakemen (an assumption not true to fact, but perhaps as near the truth in one period as another), we get the following results for three year periods near the beginning and the close, respectively, of the re-equipment process:

	1890-1892	1904-1906
Average number of brakemen.....	2113	2724
All deaths due to falling from trains for		
three years	68	52
Annual rate per thousand brakemen.....	10.8	6
All injuries due to falling from trains....	198	422
Annual rate per thousand brakemen.....	31	52
Per cent of cars equipped with train brakes	13	86

This table again indicates a lower fatality, but a higher rate of injury for the later period.

³²⁰ Connecticut, Kentucky, Michigan, New Hampshire, Ohio,

Rhode Island, and Vermont in 1904.—*Tenth Special Report of United States Bureau of Labor.*

³²¹ *Official Directory of the Iowa State Federation of Labor*, 1907, p. 131.

³²² *Laws of Iowa*, 1907, p. 112.

³²³ *Report of the Iowa Bureau of Labor Statistics*, 1906, pp. 201-203.

³²⁴ See remarks of railway employees in the *Reports of the Iowa Bureau of Labor Statistics*, 1885-1906.

³²⁵ The italics are the writer's.

³²⁶ *Laws of Iowa*, 1907, p. 106.

³²⁷ *Journal of the House of Representatives*, 1907, p. 416.

³²⁸ *Laws of Iowa*, 1878, p. 71.

³²⁹ *Laws of Iowa*, 1907, p. 113.

³³⁰ *Report of the Iowa Board of Railroad Commissioners*, 1906, pp. 6, 7. Years ending June 30. Rates per thousand were computed by the writer.

³³¹ Given as 29 in the Commissioners' *Reports*. But in the *Report* of 1884, p. 39, it is stated that there were 17 persons killed coupling cars in 1878. The detailed returns for the latter year show 14 employees killed by falling from trains, 3 caught in frogs, 2 by collisions, 1 by derailment and 3 in other ways—total 40.

³³² Given as 103 in the Commissioners' *Reports*. Figures in text were taken from detailed returns.

³³³ Given as 37 in Commissioners' *Reports*. Figures in text were taken from detailed returns.

³³⁴ In Commissioners' *Reports*, 67 and 146, respectively.

³³⁵ In Commissioner's table, 35 and 442, respectively. But the returns of the Chicago, Burlington, and Quincy, the St. Louis, Keokuk and Northwestern, and the Chicago, Burlington, and Kansas City railways are omitted, and those of the Rock Island are incorrectly summarized.

³³⁶ *Report of the Iowa Railroad Commissioners*, 1892, p. 17.

³³⁷ *State vs. Haskins*, 59 Northwestern Reporter, 545.

³³⁸ The italics are the writer's.

³³⁹ *Code of 1897*, Section 768.

³⁴⁰ Circular letter of the Legislative Committee of the Amalgamated Association of Street and Electric Railway Employees, Feb. 9, 1907.

³⁴¹ *Laws of Iowa*, 1907, p. 29; *Code Supplement of 1907*, Section 768.

³⁴² *Senate File*, No. 92, and *House File*, No. 56, 32nd General Assembly.—*Journals* of the House and Senate, 1907.

³⁴³ *Official Directory of the Iowa State Federation of Labor*, 1907, p. 127.

³⁴⁴ *Official Directory of the Iowa State Federation of Labor*, 1908, p. 129.

³⁴⁵ *Code of 1851*, Section 1010.

³⁴⁶ *Revision of 1860*, Section 1846; *Code of 1873*, Section 2130; *Code of 1897*, Section 3089.

³⁴⁷ *Code of 1851*, Section 1010.

³⁴⁸ *Revision of 1860*, Section 1846.

³⁴⁹ *Laws of Iowa* (Public), 1872, p. 13.

³⁵⁰ Neilson et als. *vs.* Iowa Eastern Railway Company, 51 Iowa 184.

³⁵¹ *Laws of Iowa*, 1876, p. 85.

³⁵² *Code of 1897*, Section 3091.

³⁵³ Neilson *vs.* Iowa Eastern Railway Company, 51 Iowa 184. Brooks *vs.* Burlington and Southwestern Ry. Co., 101 United States 442; Beach *vs.* Wakefield, 107 Iowa 567.

CHAPTER VI

³⁵⁴ *Report of the Iowa Bureau of Labor Statistics*, 1899-1900, pp. 6-74.

³⁵⁵ Totals computed by the writer.

³⁵⁶ The Census of 1900 returned 14,819 "manufacturing establishments" in Iowa, of which 4,828 were conducted under "factory

conditions."—*Bulletin of the United States Bureau of the Census*, No. 32, p. 5.

³⁵⁷ *Report of the Iowa Bureau of Labor Statistics*, 1899-1900, p. 9.

³⁵⁸ *Senate File*, No. 212, 29th General Assembly (1902).

³⁵⁹ The vote in the Senate was 36 to 0, in the House 68 to 14.—See *Journal of the Senate*, 1902, pp. 274, 904, 1021, 1196; *Journal of the House*, 1902, pp. 1183, 1226, 1271, 1312.

³⁶⁰ *Laws of Iowa*, 1902, p. 108.

³⁶¹ *Report of the Iowa Bureau of Labor Statistics*, 1901-1902, p. 19; 1903-1904, p. 76; 1906, pp. 24-25. Totals computed by the writer.

³⁶² *Report of the Iowa Bureau of Labor Statistics*, 1899-1900, pp. 16-17.

³⁶³ *Report of the Iowa Bureau of Labor Statistics*, 1903-1904, p. 5; 1906, p. 5.

³⁶⁴ *House File*, No. 228, by Mason; *Senate File*, No. 210, by Hughes (1907).

³⁶⁵ *Laws of Iowa*, 1866, p. 145; 1868, p. 52; *Code of 1873*, Section 4064; *Code of 1897*, Section 5025.

³⁶⁶ *Report of the Iowa Bureau of Labor Statistics*, 1903-1904, pp. 11-12.

³⁶⁷ *Laws of Iowa* (Public) 1874, p. 12; *Code of 1897*, Section 5026.

³⁶⁸ *Laws of Iowa*, 1882, p. 87; *Code of 1897*, Section 713.

³⁶⁹ *Reports of the Iowa Bureau of Labor Statistics*, 1887, p. 156; 1897-1898, p. 10; 1899-1900, pp. 18-19; 1903-1904, p. 5.

³⁷⁰ *House Files*, Nos. 219 and 221, *Senate Files*, Nos. 193 and 250.

³⁷¹ *Journal of the House*, 1907, pp. 275, 288, 114; *Journal of the Senate*, 1907, pp. 301, 474, 730, 731, 802, 1000.

³⁷² *Official Directory of the Iowa Federation of Labor*, 1907, p. 31; *Proceedings of the Iowa State Manufacturers Association*, 1907, p. 5; personal interviews and correspondence.

³⁷³ *Laws of Iowa*, 1882, p. 87.

³⁷⁴ *Laws of Iowa*, 1888, p. 4.

³⁷⁵ *Report of the Iowa Bureau of Labor Statistics, 1889-1900*, pp. 15-16, 66-74.

³⁷⁶ *Laws of Iowa, 1902*, pp. 108-110.

³⁷⁷ *Laws of Iowa, 1902*, pp. 61-62.

³⁷⁸ *Iowa Documents, 1904*, Vol. III, pp. 122-123; Opinion of Attorney General, Nov. 20, 1902.

³⁷⁹ The conception of public duty entertained by many of these officials is well illustrated by the following letter:

..... Iowa, February 23, '03.

Edward D. Brigham, Esq.,
Des Moines,
Iowa.

Dear Sir:—Yours of the 20th as to notices to parties as to fire-escapes at hand. No, I have not served any legal notice on any parties. Several parties called upon me as to requirements and I went into details with them, but none have complied, that I know of.

I am otherwise engaged and am not paid a salary to afford the time nor have I the disposition to hound these people into what should be their duty to themselves as landlords or employers and shall take no steps that will make me a party to unending litigation and the ill will of the community.

I do not mean to shirk any duty in the fire department and am not afraid of any part of it, but there are some things I do not care to do and this is one of those things.

I have talked myself hoarse to show these people where a fire escape of the right kind with a stand-pipe attachment was a good thing for them but if they can't see it that relieves me.

Very truly yours,

.....,

Chief Fire Department.

This letter was referred to the mayor of the city in question, who took no action. His successor in office was appealed to equally without effect. The city attorney advised the fire-chief that "no attention be paid to the Commissioner or his requests." See *Report of the Iowa Bureau of Labor Statistics, 1901-1902*, pp. 19-22.

³⁸⁰ *Laws of Iowa, 1904*, pp. 124-125.

³⁸¹ *Laws of Iowa, 1884*, p. 135.

³⁸² *Code of 1897*, Section 2470.

³⁸³ *Reports of the Iowa Bureau of Labor Statistics*, 1901-1902, p. 26; 1903-1904, pp. 78-88; 1906, p. 26.

³⁸⁴ *House File*, No. 124, and *Senate File*, No. 107, 31st General Assembly (1906); *House File*, No. 125; and *Senate File*, No. 211, 32nd General Assembly (1907).

³⁸⁵ *Labor Laws of the United States in the Tenth Special Report of the United States Bureau of Labor*.

³⁸⁶ *Laws of Iowa*, 1892, p. 72.

³⁸⁷ *Laws of Iowa*, 1902, p. 62.

³⁸⁸ From personal investigations and inquiries which were made by the writer.

³⁸⁹ *Report of the Iowa Bureau of Labor Statistics*, 1901-1902, pp. 28-43.

³⁹⁰ *Laws of Iowa*, 1902, p. 107.

³⁹¹ *Laws of Iowa*, 1902, p. 108.

³⁹² *Report of the Iowa Bureau of Labor Statistics*, 1899-1900, pp. 13-14.

³⁹³ *Bulletin of the United States Bureau of the Census*, No. 32, p. 6.

³⁹⁴ Address (unpublished) of Mr. Alfred Shepherd, Deputy Commissioner of Labor before State Convention of the Master Bakers of Iowa, February, 1906.

³⁹⁵ *House File*, No. 412, 32nd General Assembly (1907); *Journal of the House of Representatives*, 1907, pp. 775, 845; Letter written by Mr. Charles L. Marston, Chairman of House Committee on Public Health.

³⁹⁶ *Bulletin of the United States Bureau of the Census*, No. 32, p. 6; *Census of Iowa*, 1905, p. 705.

³⁹⁷ *Laws of Iowa*, 1896, p. 90.

³⁹⁸ *Iowa Documents*, 1902, Vol. III, p. 67.

³⁹⁹ *Reports of the Iowa Bureau of Labor Statistics*, 1899-1900, p. 56; 1901-1902, p. 42; 1903-1904, p. 52; 1906, pp. 24-25. Data

for the biennial period ending October 1, 1908, are from unpublished records in the Commissioner's office.

⁴⁰⁰ *Laws of Iowa*, 1896, p. 89.

⁴⁰¹ *Laws of Iowa*, 1904, p. 92.

⁴⁰² *Laws of Iowa*, 1902, p. 108.

⁴⁰³ *Laws of Iowa*, 1902, p. 62.

⁴⁰⁴ *Reports of the Iowa Bureau of Labor Statistics*, 1901-1902, p. 19; 1903-1904, p. 76; 1906, pp. 24-25.

⁴⁰⁵ *Report of the Iowa Bureau of Labor Statistics*, 1903-1904, p. 77.

CHAPTER VII

⁴⁰⁶ For the subject matter of this chapter the writer is especially indebted to an article upon *Child Labor Legislation in Iowa*, by Professor Isaac A. Loos of the State University of Iowa, which appeared in the October, 1905, number of *The Iowa Journal of History and Politics*; also to an unpublished study of *Compulsory Education in Iowa*, by Professor Forest C. Ensign of The State University of Iowa.

⁴⁰⁷ *Census of Iowa*, 1905, p. lxxxii.

⁴⁰⁸ *Census of Iowa*, 1905, p. lxvii.

⁴⁰⁹ *Census of Iowa*, 1905, pp. lvi, lvii.

Foreign born persons less than five years in Iowa

Total	30,305
Natives of Germany	7,970
Natives of Sweden	3,734
Natives of Norway	3,528
Natives of British Isles	3,507
Natives of Denmark	3,016
Natives of Holland	1,691
Natives of all other countries	6,859

⁴¹⁰ *Laws of Iowa* (Public), 1874, p. 24.

⁴¹¹ *Laws of Iowa*, 1880, p. 199.

⁴¹² *Report of State Mine Inspector*, 1882-1883, p. 94.

⁴¹³ *Laws of Iowa*, 1884, p. 27; *Code of 1897*, Section 2489.

⁴¹⁴ *Laws of Iowa*, 1906, p. 71.

⁴¹⁵ Statements of Mine Inspectors, and correspondence with officials of United Mine Workers of America.

⁴¹⁶ *Senate File*, No. 6, 21st General Assembly (1886).

⁴¹⁷ *Journal of the Senate*, 1886, pp. 50, 306, 312, 816.

⁴¹⁸ *Journal of the Senate*, 1888, p. 454. The italics are the writer's.

⁴¹⁹ *Report of the Iowa Bureau of Labor Statistics* (1887), pp. 203, 408-409; (1889) pp. 405-407.

⁴²⁰ *Senate File*, No. 62, 23rd General Assembly (1890); *Journal of the Senate*, 1890, pp. 94, 241.

⁴²¹ *Journal of the Senate*, 1890, p. 241.

⁴²² *Senate File*, No. 350; *Journal of the Senate*, 1890, pp. 318, 500.

⁴²³ *Compendium of the Ninth Census of the United States*, 1870, p. 594; *Census of Iowa*, 1905, p. lxxxii.

⁴²⁴ *Compendium of the Ninth Census of the United States*, 1870, p. 797; *Census of Iowa*, 1905, p. 693.

⁴²⁵ *Census of Iowa*, 1905, p. lxvii.

⁴²⁶ *Twelfth Census of the United States, Occupations*, pp. 154, 166; *Population*, Pt. II, pp. 38, 111.

⁴²⁷ *Twelfth Census of the United States, Occupations*, pp. 168, 176, 178, 180, 181, 182, 184, clxxiii.

⁴²⁸ *Report of the Iowa Bureau of Labor Statistics*, 1901-1902, p. 449. At the date of this writing (September, 1908), 1,180 children between the ages of 14 and 16 years are employed in 1,080 establishments. Statement of Deputy Commissioner of Labor.

⁴²⁹ Address of Honorable E. D. Brigham, in *Proceedings of Iowa Conference of Charities and Correction*, 1903, p. 276.

⁴³⁰ *Report of the Iowa Bureau of Labor Statistics*, 1901-1902, p. 23.

⁴³¹ *Report of the Iowa Bureau of Labor Statistics*, 1901-1902, p. 25.

⁴³² *Annals of the American Academy*, Vol. XXVII, p. 297.

- ⁴³³ *Report of Iowa Bureau of Labor Statistics*, 1901-1902, p. 55.
- ⁴³⁴ *Report of Iowa Bureau of Labor Statistics*, 1903-1904, p. 78.
- ⁴³⁵ *Report of Iowa Bureau of Labor Statistics*, 1901-1902, p. 59.
- ⁴³⁶ *Laws of Iowa*, 1902, p. 108.
- ⁴³⁷ At all events several were found to have been injured within the first eighteen months after the law went into operation. *Report of the Iowa Bureau of Labor Statistics*, 1903-1904, pp. 78, ff.
- ⁴³⁸ *Report of the Iowa Bureau of Labor Statistics*, 1901-1902, p. 23.
- ⁴³⁹ *Journals of the Council of Iowa Territory*, 1841, pp. 284-286.
- ⁴⁴⁰ *Iowa School Report*, 1871, pp. 59-67; 1877, pp. 43, 61; 1881, p. 34; 1886-1887, pp. 41-63; 1889, pp. 97-101; 1899, pp. 52-69; 1901, p. 19; 1903, p. lxxxiv.
- ⁴⁴¹ *Laws of Iowa*, 1902, pp. 78-80.
- ⁴⁴² *Laws of Iowa*, 1904, p. 113.
- ⁴⁴³ *Iowa School Report*, 1906, p. 26. Professor Ensign's figures based upon the same data are 3,710 and 1,959 respectively. The source of the discrepancy does not appear.
- ⁴⁴⁴ *Iowa School Report*, 1902-1903, App. p. 73; 1905, Pt. II, pp. 7, 52; 1906, p. 77. The figures for 1906-1907 are from unpublished data in the office of the State Superintendent.
- ⁴⁴⁵ *Code Supplement of 1907*, Section 2823-i.
- ⁴⁴⁶ The secretaries' returns from these cities for the school year 1906-1907 are as follows:

CITY	POPULATION 1905	CHILDREN 7 TO 14 NOT ATTENDING SCHOOL AT LEAST 16 WEEKS
Des Moines	75,623	84
Dubuque	41,941	12
Sioux City	40,952	495
Davenport	39,707	0
Cedar Rapids	28,750	0

Burlington	25,318	0
Council Bluffs	25,231	26
Clinton	22,755	0
Ottumwa	20,181	0
All cities over 20,000.....	320,458	617
Per cent of entire State.....	14.5	.09

There is good reason to distrust the accuracy of the returns for certain cities, but they are probably at least as reliable as those for the State as a whole. If at all trustworthy they show that truancy is a serious evil in but one city of twenty thousand inhabitants in the State. It is said that the people of Sioux City are now (1908), agitating the question of enforcing school attendance.

⁴⁴⁷ Unpublished manuscript of Professor Forest C. Ensign.

⁴⁴⁸ *Iowa School Report*, 1906, p. 27.

⁴⁴⁹ Unpublished manuscript of Professor Ensign, answers to questionnaire.

⁴⁵⁰ *Laws of Iowa*, 1907, p. 7.

⁴⁵¹ Statement of Deputy State Superintendent Bennett. There is no official report of the number of school corporations having truant officers.

⁴⁵² *Laws of Iowa*, 1902, p. 80.

⁴⁵³ *Laws of Iowa*, 1907, p. 152.

⁴⁵⁴ *Iowa School Report*, 1906, p. 26.

⁴⁵⁵ The manuscript of this unpublished address was very kindly loaned to the writer by Commissioner Brigham.

⁴⁵⁶ *Report of the Iowa Bureau of Labor Statistics*, 1899-1900, pp. 20-22.

⁴⁵⁷ *Senate File*, No. 3, 29th General Assembly (1902).

⁴⁵⁸ *Official Directory of the Iowa Federation of Labor*, 1902, p. 185.

⁴⁵⁹ *Journal of the Senate*, 1902, pp. 68, 444, 638-639; *Journal of the House of Representatives*, 1902, pp. 859, 860, 917.

⁴⁶⁰ *Official Directory of the Iowa Federation of Labor*, 1902, p. 190; 1903, p. 272; 1904, pp. 211, 222; 1905, pp. 115-119.

⁴⁶¹ Personal Letter of Mr. T. G. Fletcher of Marshalltown.

⁴⁶² *Report of the Iowa Bureau of Labor Statistics, 1901-1902*, pp. 22-26.

⁴⁶³ *Report of the Iowa Bureau of Labor Statistics, 1901-1902*, p. 5.

⁴⁶⁴ *Iowa Documents, 1904, Vol. I*, pp. 20-21.

⁴⁶⁵ *Year Book of the Iowa Federation of Women's Clubs, 1905-1906*, p. 116.

⁴⁶⁶ Reprinted from *House Bills, 30th General Assembly. House File, No. 43*, is identical with *Senate File, No. 56*.

⁴⁶⁷ *Journal of the Senate, 1904*, pp. 93, 162, 203, 215, 216, 230-234, 511, 518.

⁴⁶⁸ For this summary of arguments used on the floor of the House, the writer is indebted to Mr. W. S. Hart of Waukon and Mr. J. C. DeMar of Davis county. The legislative debates are not published.

⁴⁶⁹ *Year Book of the Iowa Federation of Women's Clubs, 1905-1906*, p. 116; *Official Directory of the Iowa Federation of Labor, 1904*, p. 189.

⁴⁷⁰ There were 88 petitions from 48 counties.

⁴⁷¹ *Journal of the House of Representatives, 1904*, pp. 446-447.

⁴⁷² See *Annals of the American Academy, Vol. XXVII*, pp. 285-288.

⁴⁷³ The growth of this industry in one unregulated and two regulated States is exhibited in the following table. The comparison is limited to canned vegetables since that is the only department of the canning industry important in Iowa:

STATE	CHILDREN UNDER 16		VALUE OF CANNED VEGETABLES		PER CENT OF INCREASE	RANK	
	1899	1904	1899	1904		1899	1904
Illinois . . .	47	37	\$1,774,913	\$2,946,788	66	6	4
New York. .	219	161	\$4,410,251	\$6,836,451	55	2	2
Maryland. .	986	1,117	\$6,260,691	\$9,556,611	52.6	1	1

Bulletin of the United States Bureau of the Census, No. 61, pp. 14-15.

⁴⁷⁴ *Bulletin of the United States Bureau of the Census*, No. 85, p. 22.

⁴⁷⁵ *Bulletin of the United States Bureau of the Census*, No. 69, pp. 18-41.

⁴⁷⁶ All the reasons mentioned in the text were assigned, in answer to the writer's inquiries, by employers, labor leaders, truant officers, humanitarian workers, and others familiar with the facts. Drunkenness and extravagance were more frequently mentioned than any of the others.

⁴⁷⁷ Loos's *Child Labor Legislation in Iowa* in the October, 1905, number of *The Iowa Journal of History and Politics*.

⁴⁷⁸ *Proceedings of the Eighth Iowa Conference of Charities and Correction*, p. 70.

⁴⁷⁹ *Official Directory of the Iowa Federation of Labor*, 1905, p. 133; 1906, p. 103.

⁴⁸⁰ *House File*, No. 74, by Hart; *Journal of the House of Representatives*, 1906, p. 157; *Senate File*, No. 57, by Dowell, *Journal of the Senate*, 1906, p. 102.

⁴⁸¹ *Journal of the House of Representatives*, 1906, pp. 395-397.

⁴⁸² *Journal of the House of Representatives*, 1906, pp. 499-501.

⁴⁸³ *Journal of the Senate*, 1906, pp. 445, 448, 621-623, 658-660.

⁴⁸⁴ *Journal of the House of Representatives*, 1906, pp. 770-771, 823-929, 1117-1119, 1153, 1191, 1194, 1218, 1236; *Journal of the Senate*, 1906, pp. 712, 732, 835, 837, 1038, 1046, 1048, 1049, 1150, 1152.

⁴⁸⁵ *Journal of the House of Representatives*, 1906, pp. 395-397; *Laws of Iowa*, 1906, pp. 71-73.

⁴⁸⁶ *Journal of the House of Representatives*, 1906, p. 499.

⁴⁸⁷ *Journal of the House of Representatives*, 1906, pp. 499-500.

⁴⁸⁸ *Journal of the House of Representatives*, 1906, p. 499.

⁴⁸⁹ *Journal of the Senate*, 1906, p. 622.

⁴⁹⁰ Opinion of the Attorney General, *Iowa State Mine Inspector's Report*, 1906, p. 74.

⁴⁹¹ *Bulletin of the United States Bureau of the Census*, No. 61, pp. 14, 15, 23, 24.

⁴⁹² *Report of Iowa Bureau of Labor Statistics*, 1906, pp. 261-270.

⁴⁹³ *Report of the Iowa Bureau of Labor Statistics*, 1906, p. 267.

MONTH	TOTAL NUMBER OF EMPLOYEES
July	246
August	3,255
September	4,152
October	644

⁴⁹⁴ This discussion is based on correspondence and interviews with members of the legislature, factory inspectors, and owners and employees of canneries.

⁴⁹⁵ *Journal of the Senate*, 1906, pp. 657-658.

⁴⁹⁶ *Report of Iowa Bureau of Labor Statistics*, 1906, pp. 5, 6, 25.

⁴⁹⁷ Unpublished data in the office of the Commissioner of Labor.

⁴⁹⁸ *Laws of Iowa*, 1906, p. 73.

⁴⁹⁹ Letter of Mr. C. C. Dowell of Des Moines, who had charge of the Child Labor Bill in the Senate both in 1904 and 1906.

⁵⁰⁰ One store at Davenport visited by the writer had a posted list of 23 children under sixteen, of whom thirteen were put down as barely fourteen. At a broom factory in the same city the numbers were 14 and 8, respectively. Like facts were observed elsewhere.

⁵⁰¹ See p. 125.

⁵⁰² *Report of the Iowa Bureau of Labor Statistics*, 1906, p. 6.

⁵⁰³ For this statement the writer is indebted to the efficient humane officer at Davenport. He has been told the same thing by well-informed persons elsewhere.

⁵⁰⁴ There are no statistics of the street-trades in Iowa. The writer's statements rest on personal observation and inquiry.

⁵⁰⁵ That this is no hypothetical case is shown by the following conversation between the writer and a newsboy on Walnut Street, Des Moines, one chilly November afternoon:—"How old are you?" "Most 'leven." "Go to school?" "Yes, sir." "When do you be-

gin work?" "Right after school." "How long do you work?" "Oh, sometimes eight, sometimes nine, sometimes I guess its ten. General 'bout nine." "Do you walk home then?" "No, I go on the car." "'Taint so far," he added, "but it seems like a good piece after dark." This boy lived in the uptown residence district, on Grand Avenue.

⁵⁰⁶ Adams's *Children in American Street Trades* in the *Annals of the American Academy*, Vol. XXV, pp. 437-458; Hall's *After School Hours—What?* in *Charity*, Vol. XI, pp. 224-228.

⁵⁰⁷ These statements are made on the authority of the well informed persons in ten of the largest cities in Iowa.

⁵⁰⁸ Statement of the truant officer of Des Moines—a gentleman who has had many years' experience in dealing with juvenile delinquents in that city.

CHAPTER VIII

⁵⁰⁹ The cases most frequently referred to as establishing the two most characteristic features of the law of employers' liability (assumption of risk and its corollary the fellow-servant rule) are: *Priestly vs. Fowler*, 4 Mees and Welsby 1 (1837); *Murray vs. South Carolina Railroad Company*, 1 McMullan 385 (1841); *Farwell vs. Boston and Worcester Rail Road Corporation*, 4 Metcalf 49 (1842).

⁵¹⁰ *Galloway vs. Chicago, Rock Island and Pacific Railway Company*, 87 Iowa 458 (1893); *McCaull vs. Bruner*, 91 Iowa 214 (1894); *Rusch vs. City of Davenport*, 6 Iowa 443 (1858).

⁵¹¹ *Dillon vs. Iowa Central Railway Company*, 118 Iowa 645 (1902); *Boston Insurance Company vs. Chicago, Rock Island and Pacific Railway Company*, 118 Iowa 423 (1902).

⁵¹² *Handelun vs. Burlington, Cedar Rapids and Northern Railway Company*, 72 Iowa 709 (1887).

⁵¹³ *Liming vs. Illinois Central Railway Company*, 81 Iowa 246 (1890). Proximate cause is probable cause, and the proximate consequence of a given act or omission is one which succeeds naturally in the ordinary course of things, and which, therefore, ought to have been anticipated by the wrong doer. *Watson vs. Dilts*, 116 Iowa 249 (1902). But where an act is liable to produce many familiar

results which would cause injury, it is no less negligent because the accident which does occur is so unusual and extraordinary that it could not reasonably be expected to happen. *Doyle vs. Chicago, St. Paul and Kansas City Railway Company*, 77 Iowa 607 (1889).

The determination of the proximate cause of an injury is often a nice question, and is considered in very numerous cases.

⁵¹⁴ *Wright vs. Illinois and Mississippi Telegraph Company*, 20 Iowa 195 (1886). The doctrine of contributory negligence is stated or applied in numberless cases.

⁵¹⁵ *O'Keefe vs. Chicago, Rock Island and Pacific Railway Company*, 32 Iowa 467 (1871); *Rietveld vs. Wabash Railroad Company*, 129 Iowa 249 (1906).

⁵¹⁶ *Jerolman vs. Chicago Great Western Railway Company*, 108 Iowa 177 (1899).

⁵¹⁷ *Hatfield vs. Chicago, Rock Island and Pacific Railway Company*, 61 Iowa 434 (1883).

⁵¹⁸ *Cooper vs. Central Railroad of Iowa*, 44 Iowa, 134 (1876); *Keefe vs. Chicago and Northwestern Railway Company*, 92 Iowa 182 (1894).

⁵¹⁹ *Baird vs. Morford*, 29 Iowa 531 (1870).

⁵²⁰ *Hopkinson vs. Knapp and Spalding Company*, 92 Iowa 328 (1894); *Murphy vs. Chicago, Rock Island and Pacific Railway Company*, 45 Iowa 661 (1877).

⁵²¹ *Murphy vs. Chicago, Rock Island and Pacific Railway Company*, 45 Iowa 661 (1877).

⁵²² *Ellis vs. Republic Oil Company*, 133 Iowa 11 (1906).

⁵²³ *Dalton vs. Chicago, Rock Island and Pacific Railway Company*, 104 Iowa 26 (1897).

⁵²⁴ *Phinney vs. Illinois Central Railroad Company*, 122 Iowa 488 (1904).

⁵²⁵ *Greenleaf vs. Illinois Central Railroad Company*, 29 Iowa 14 (1870).

⁵²⁶ *Keist vs. Chicago Great Western Railway Company*, 110 Iowa 32 (1899).

⁵²⁷ *Pierson vs. Chicago and Northwestern Railway Company*, 127 Iowa 13 (1905).

⁵²⁸ *Callahan vs. Burlington and Missouri River Railroad Company*, 23 Iowa 562 (1867).

⁵²⁹ *Kellogg vs. Payne*, 21 Iowa 575 (1866).

⁵³⁰ *Aga vs. Harbach*, 127 Iowa 144 (1905).

⁵³¹ *Baker vs. Chicago, Rock Island and Pacific Railway Company*, 95 Iowa 163 (1895).

⁵³² *Butler vs. Chicago, Burlington and Quincy Railroad Company*, 87 Iowa 206 (1893).

⁵³³ *Parrott vs. Chicago Great Western Railway Company*, 127 Iowa 419 (1905).

⁵³⁴ *Kelleher vs. Schmitt and Henry Manufacturing Company*, 122 Iowa 635 (1904).

⁵³⁵ *Lanza vs. Legrand Quarry Company*, 115 Iowa 299 (1902).

⁵³⁶ *Greenleaf vs. Illinois Central Railroad Company*, 29 Iowa 14 (1870).

⁵³⁷ *Hunt vs. Chicago and Northwestern Railroad Company*, 26 Iowa 363 (1868); *Brusseau vs. Lower Brick Company*, 133 Iowa 245 (1907).

⁵³⁸ *Gould vs. Schermer*, 101 Iowa 582 (1897).

⁵³⁹ *Murphy vs. Chicago, Rock Island and Pacific Railway Company*, 38 Iowa 539 (1874).

⁵⁴⁰ *Brann vs. Chicago, Rock Island and Pacific Railway Company*, 53 Iowa 595 (1880); *Stockwell vs. Chicago and Northwestern Railway Company*, 106 Iowa 63 (1898).

⁵⁴¹ *Scott vs. Iowa Telephone Company*, 126 Iowa 524 (1905); *Martin vs. Des Moines Edison Light Company*, 131 Iowa 724 (1906).

⁵⁴² *Meloy vs. Chicago and Northwestern Railway Company*, 77 Iowa 744 (1889).

⁵⁴³ *McKee vs. Chicago, Rock Island and Pacific Railway Company*, 83 Iowa 616 (1891).

⁵⁴⁴ *Brownfield vs. Chicago, Rock Island and Pacific Railway Company*, 107 Iowa 254 (1899).

⁵⁴⁵ *Cushman vs. Carbondale Fuel Company*, 116 Iowa 618 (1902); *Blazenic vs. Iowa and Wisconsin Coal Company*, 102 Iowa 706 (1897).

⁵⁴⁶ *Hall vs. Chicago, Rock Island and Pacific Railway Company*, 116 Northwestern 113 (1908); *Cooper vs. Central Railroad of Iowa*, 44 Iowa 134 (1876).

⁵⁴⁷ *Hamilton vs. Des Moines Valley Railroad Company*, 36 Iowa 31 (1872); *Austin vs. Chicago, Rock Island and Pacific Railway Company*, 93 Iowa 236 (1895).

⁵⁴⁸ *Ives vs. Weldon*, 114 Iowa 476 (1901).

⁵⁴⁹ *Messenger vs. Pate*, 42 Iowa 443 (1876).

⁵⁵⁰ *Chicago, Milwaukee and St. Paul Railway Company vs. Voelker*, 129 Federal 522.

⁵⁵¹ *Calloway vs. Agar Packing Company*, 129 Iowa 1 (1905).

⁵⁵² *Mosgrove vs. Zimbleman Coal Company*, 110 Iowa 169 (1899).

⁵⁵³ *Tobey vs. Burlington, Cedar Rapids and Northern Railway Company*, 94 Iowa 256 (1895).

⁵⁵⁴ *Dodge vs. Burlington, Cedar Rapids and Missouri River Railway Company*, 34 Iowa 276 (1872).

⁵⁵⁵ *Forbes vs. Boone Valley Railway Company*, 113 Iowa 94 (1901); *Taylor vs. Star Coal Company*, 110 Iowa 40 (1899).

⁵⁵⁶ *Fink vs. Des Moines Ice Company*, 84 Iowa 321 (1892).

⁵⁵⁷ *Mosgrove vs. Zimbleman Coal Company*, 110 Iowa 169 (1899); *Kroeger vs. Marsh Bridge Company*, 116 Northwestern 125 (1908).

⁵⁵⁸ See *Martin vs. Des Moines Edison Light Company*, 131 Iowa 724 (1906), where various statements of the master's duty are discussed.

⁵⁵⁹ *Barto vs. Iowa Telephone Company*, 126 Iowa 241 (1904).

⁵⁶⁰ *Mosgrove vs. Zimbleman Coal Company*, 110 Iowa 169 (1899).

⁵⁶¹ *Morris vs. Excelsior Coal Company*, 95 Iowa 639 (1895).

⁵⁶² *Oleson vs. Maple Grove Coal and Mining Company*, 115 Iowa 74 (1901).

⁵⁶³ *Taylor vs. Star Coal Company*, 110 Iowa 40 (1899); *Thayer vs. Smoky Hollow Coal Company*, 121 Iowa 121 (1903).

⁵⁶⁴ *Newbury vs. Getchel Manufacturing Company*, 100 Iowa 441 (1896). *Anderson vs. Illinois Central Railroad Company*, 109 Iowa 524 (1899).

⁵⁶⁵ *Treka vs. Burlington, Cedar Rapids and Northern Railway Company*, 100 Iowa 205 (1896).

⁵⁶⁶ *Forbes vs. Boone Valley Coal and Railway Company*, 113 Iowa 94 (1901); *Young vs. Burlington Wire Mattress Company*, 79 Iowa 415 (1890).

⁵⁶⁷ *Treka vs. Burlington, Cedar Rapids and Northern Railway Company*, 100 Iowa 205 (1896). See also the cases cited in notes 565 and 566.

⁵⁶⁸ *Burns vs. Chicago, Milwaukee and St. Paul Railway Company*, 69 Iowa 450 (1886).

⁵⁶⁹ *Bryce vs. Burlington, Cedar Rapids and Northern Railway Company*, 119 Iowa 274 (1903).

⁵⁷⁰ *Young vs. Burlington Wire Mattress Company*, 79 Iowa 415 (1890). Failure to cover knives of tenon-machine.

⁵⁷¹ *Harney vs. Chicago, Rock Island and Pacific Railway Company*, 115 Northwestern 886 (1908). Failure to guard a rip-saw, it being shown that several methods of guarding such a saw were in common use.

⁵⁷² *Shebeck vs. National Cracker Company*, 120 Iowa 414 (1903).

⁵⁷³ *Greenleaf vs. Illinois Central Railroad Company*, 29 Iowa 14 (1870).

⁵⁷⁴ *Brusseau vs. Lower Brick Company*, 133 Iowa 245 (1907).

⁵⁷⁵ *Brann vs. Chicago, Rock Island and Pacific Railway Company*, 53 Iowa 595 (1880).

⁵⁷⁶ *Knapp vs. Sioux City and Pacific Railway Company*, 71 Iowa 41 (1887).

⁵⁷⁷ *Brusseau vs. Lower Brick Company*, 133 Iowa 245 (1907).

⁵⁷⁸ *Boston Insurance Company vs. Chicago, Rock Island and Pa-*

cific Railway Company, 118 Iowa 423 (1902); *Way vs. Chicago and Northwestern Railway Company*, 76 Iowa 393 (1888).

⁵⁷⁹ *Hathaway vs. Illinois Central Railway Company*, 92 Iowa 337 (1894).

⁵⁸⁰ *Scott vs. Iowa Telephone Company*, 126 Iowa 524 (1905).

⁵⁸¹ *Wicklund vs. Saylor Coal Company*, 119 Iowa 335 (1903).

⁵⁸² *Hathaway vs. Illinois Central Railway Company*, 92 Iowa 337 (1894).

⁵⁸³ *Cooper vs. Central Railroad of Iowa*, 44 Iowa 134 (1876).

⁵⁸⁴ *Beardsley vs. Murray Iron Works*, 129 Iowa 675 (1906). Inexperienced employees should have been instructed how they might safely roll a heavy wheel.

⁵⁸⁵ *Hendrickson vs. United States Gypsum Company*, 133 Iowa 89 (1907). It is the duty of a mine operator to warn employees of an expected explosion in blasting.

⁵⁸⁶ *Hanson vs. Hammell*, 107 Iowa 171 (1898).

⁵⁸⁷ *McCarthy vs. Mulgrew*, 107 Iowa 76 (1899).

⁵⁸⁸ *Baker vs. Chicago, Rock Island and Pacific Railway Company*, 95 Iowa 163 (1895).

⁵⁸⁹ *Sedgwick vs. Illinois Central Railway Company*, 76 Iowa 340 (1888); *Brownfield vs. Chicago, Rock Island and Pacific Railway Company*, 107 Iowa 254 (1899). The distinction is recognized in *Gorman vs. Des Moines Brick Company*, 99 Iowa 257 (1896).

⁵⁹⁰ *Gould vs. Chicago, Burlington and Quincy Railway Company*, 66 Iowa 590 (1885).

⁵⁹¹ *Rose vs. Des Moines Valley Railway Company*, 39 Iowa 246 (1874); *Seagel vs. Chicago, Milwaukee and St. Paul Railway Company*, 83 Iowa 380 (1891).

⁵⁹² The employee should exercise such care as a prudent person might reasonably be expected to exercise in view of all the circumstances of the particular case, so far as they are known to him, or are discoverable in the exercise of proper diligence. *Baird vs. Chicago, Rock Island and Pacific Railway Company*, 61 Iowa 361 (1883). A high degree of care is reasonable in running a train at

night during or immediately after a heavy storm. *Seagel vs. Chicago, Milwaukee and St. Paul Railway Company*, 83 Iowa 380 (1891).

⁵⁹³ No one can be charged with negligence in failing to avoid dangers of which he knows nothing. *Kearns vs. Chicago, Milwaukee and St. Paul Railway Company*, 66 Iowa 599 (1885).

⁵⁹⁴ *Greenleaf vs. Dubuque and Sioux City Railroad Company*, 33 Iowa 52 (1871).

⁵⁹⁵ *Stanley vs. Cedar Rapids and Marion City Railway Company*, 119 Iowa 526 (1903).

⁵⁹⁶ *Sprague vs. Atlee*, 81 Iowa 1 (1890).

⁵⁹⁷ *Horan vs. Chicago, St. Paul, Minneapolis and Omaha Railway Company*, 89 Iowa 328 (1893). A brakeman, coupling cars in the night time is not bound to know that the ballast has been washed from between certain ties in the road-bed.

⁵⁹⁸ In determining whether a brakeman was or was not negligent "It is competent for the jury to take into consideration the hazardous nature of the work in which brakemen are employed; their means of knowledge; what they are reasonably required to know, in the nature of their calling, of machinery; the thought and reflection demanded or expected of such persons; their just expectation that the company will exercise due care and prudence in protecting them against injury; and to give due weight to those instincts which naturally lead men to avoid injury and preserve their lives."--*Greenleaf vs. Illinois Central Railroad Company*, 29 Iowa 14 (1870).

⁵⁹⁹ See cases cited in note 548.

⁶⁰⁰ *Taylor vs. Star Coal Company*, 110 Iowa 40 (1899). A miner injured on Sunday by fall of slate may recover notwithstanding his violation of the Sunday law, such an accident being no more likely to occur on Sunday than on other days.

⁶⁰¹ *Sedgwick vs. Illinois Central Railway Company*, 76 Iowa 340 (1888).

⁶⁰² *Reed vs. Burlington, Cedar Rapids and Northern Railway Company*, 72 Iowa 166 (1887). A brakeman went between cars to make a coupling, in violation of a rule of the company, but it appeared that the accident would not have been avoided had he

observed the rule. It was held that he was not negligent as a matter of law.

⁶⁰³ *Pierson vs. Chicago and Northwestern Railway Company*, 127 Iowa 13 (1905). It was not negligence as a matter of law, for a brakeman to go between cars in motion and draw a coupling pin by hand, in violation of a standing rule, when the automatic coupler was out of order.

⁶⁰⁴ *Spaulding vs. Chicago, St. Paul and Kansas City Railway Company*, 98 Iowa 215 (1896); *Strong vs. Iowa Central Railway Company*, 94 Iowa 380 (1895).

⁶⁰⁵ *Gibson vs. Burlington, Cedar Rapids and Northern Railway Company*, 107 Iowa 596 (1899).

⁶⁰⁶ *Gormon vs. Des Moines Brick Company*, 99 Iowa 257 (1896). Employee was negligent, as a matter of law, in attempting to adjust a shaft bearing while in motion when he knew it was highly dangerous to do so and when he might easily have stopped the machine.

⁶⁰⁷ *Reed vs. Burlington, Cedar Rapids and Northern Railway Company*, 72 Iowa 166 (1887); *Baird vs. Chicago, Rock Island and Pacific Railway Company*, 61 Iowa 361 (1883).

⁶⁰⁸ *Horan vs. Chicago, St. Paul, Minneapolis and Omaha Railway Company*, 89 Iowa 328 (1893). A brakeman discarded a stick provided by the railway company to be used in making couplings. It did not appear that, under the particular circumstances, the coupling could have been more safely made by the use of such stick. It was held that the question of contributory negligence was for the jury.

⁶⁰⁹ *Pierson vs. Chicago and Northwestern Railway Company*, 127 Iowa 13 (1905).

⁶¹⁰ *Magee vs. Chicago and Northwestern Railway Company*, 82 Iowa 249 (1891). Brakeman stepped off moving train without looking to see in which direction it was going.

⁶¹¹ *McKee vs. Chicago, Rock Island and Pacific Railway Company*, 83 Iowa 616 (1891). Brakeman was struck by the wing fence at a cattle guard, while leaning out from the side ladder of a car to investigate a broken brake beam. It was held (Justice Beck dissenting) that, being chargeable with knowledge that the wing fence

approached within two feet of the bottom of the car, he was negligent in leaning out in the manner that he did. To the writer it seems more consonant with justice to hold that this case comes within the rule followed in *Bryce vs. Chicago, Milwaukee and St. Paul Railway Company*, 103 Iowa 665 (1897). See note 618.

⁶¹² *Doggett vs. Illinois Central Railroad Company*, 34 Iowa 284 (1872). An employee, not engaged in the operation of the train, rode upon the engine tender, and was killed by the breaking down of a culvert. Had he ridden in the caboose, he would not have been injured. It was held that he could not recover.

⁶¹³ *Beckman vs. Consolidation Coal Company*, 90 Iowa 252 (1894). Employee left a "spring switch" open and was injured by a train of mine cars thereby thrown on to an "empty" track.

⁶¹⁴ *Thoman vs. Chicago and Northwestern Railway Company*, 92 Iowa 196 (1894). Railway employee passed near a box car from which he knew ties were being rapidly thrown, without giving any warning of his approach.

⁶¹⁵ *Sprague vs. Atlee*, 81 Iowa 1 (1890). A boy of thirteen, inexperienced in the operation of a buzz-saw was not, as a matter of law, guilty of negligence in changing the gauge in the manner in which he had been taught to do it, though there may have been other and safer methods of effecting the change.

⁶¹⁶ *McDermott vs. Iowa Falls and Sioux City Railway Company*, 85 Iowa 180 (1892). Brakeman injured by slipping upon ice-covered end-gate. It was held that the question of his negligence in stepping upon the end-gate would depend upon the haste required in the performance of the duty in which he was then engaged.

⁶¹⁷ *Frandsen vs. Chicago, Rock Island and Pacific Railway Company*, 36 Iowa 372 (1873). But an emergency created by an employee will not excuse his contributory negligence at the time of the injury. *Nelling vs. Chicago, St. Paul and Kansas City Railway Company*, 98 Iowa 554 (1896).

⁶¹⁸ *Bryce vs. Chicago, Milwaukee and St. Paul Railway Company*, 103 Iowa 665 (1897). A brakeman was struck by bolts projecting from a truss built on the side of a bridge while he was climbing down the side ladder of a box-car in order to reach a flat-car to release the brake on the latter. It was held that he was not

negligent, as a matter of law, in not looking out for a danger which resulted from improper construction of the bridge, and of which he had no actual knowledge. Compare *McKee vs. Chicago, Rock Island and Pacific Railway Company*, 83 Iowa 616 (1891), where an opposite conclusion was reached from a similar state of facts.

⁶¹⁹ *Stomne vs. Hanford Produce Company*, 108 Iowa 137 (1899). Plaintiff was injured while riding on a freight elevator. It was customary for employees moving freight to ride on this elevator, though it was known to be less safe than the passenger elevator. It was held that the question of contributory negligence was for the jury.

⁶²⁰ *Kroy vs. Chicago, Rock Island and Pacific Railway Company*, 32 Iowa 357 (1871). To stand on the deadwood of a moving car while attempting to draw the coupling pin, is negligence as a matter of law, notwithstanding the practice may be customary.

⁶²¹ *Nichols vs. Chicago, Rock Island and Pacific Railway Company*, 69 Iowa 154 (1886).

⁶²² The assumption of the ordinary risks of the employment was apparently first laid down in this State in *Sullivan vs. Mississippi and Missouri Railroad Company*, 11 Iowa 421 (1860); and that of known extraordinary risks in *Greenleaf vs. Illinois Central Railroad Company*, 29 Iowa 14 (1870). Both aspects of the doctrine are quite fully discussed in the recent case of *Martin vs. Des Moines Edison Light Company*, 131 Iowa 724 (1906).

⁶²³ *Martin vs. Chicago, Rock Island and Pacific Railroad Company*, 118 Iowa 148 (1902).

⁶²⁴ *Sullivan vs. Mississippi and Missouri Railroad Company*, 11 Iowa 421 (1860). *Martin vs. Des Moines Edison Light Company*, 131 Iowa 724 (1906).

⁶²⁵ *Martin vs. Des Moines Edison Light Company*, 131 Iowa 724 (1906). "When the employer, or those representing him, has provided a place which is reasonably safe in itself, and has furnished reasonably safe tools and appliances and reasonably competent fellow workmen, then the risk incident to the progress of the work as carried on by the employees is assumed by virtue of the employment, and for an injury received in the prosecution of the work in such place with such appliances and in connection with such fel-

low workmen the employe cannot recover from the employer.”—*McQueeney vs. Chicago, Milwaukee and St. Paul Railway Company*, 120 Iowa 522 (1903).

⁶²⁶ *Martin vs. Des Moines Edison Light Company*, 131 Iowa 724 (1906).

⁶²⁷ *Stomne vs. Hanford Produce Company*, 108 Iowa 137 (1899); *Wilder vs. Great Western Cereal Company*, 130 Iowa 263 (1906).

⁶²⁸ *Mayes vs. Chicago, Rock Island and Pacific Railway Company*, 63 Iowa 562 (1884).

⁶²⁹ *Wilder vs. Great Western Cereal Company*, 134 Iowa 451 (1907).

⁶³⁰ *Martin vs. Des Moines Edison Light Company*, 131 Iowa 724 (1906); *McQueeney vs. Chicago, Milwaukee and St. Paul Railway Company*, 120 Iowa 522 (1903).

⁶³¹ *Kerns vs. Chicago, Milwaukee and St. Paul Railway Company*, 94 Iowa 121 (1895).

⁶³² *Connors vs. Burlington, Cedar Rapids and Northern Railway Company*, 74 Iowa 383 (1888).

⁶³³ *Mumford vs. Chicago, Rock Island and Pacific Railway Company*, 128 Iowa 685 (1905).

⁶³⁴ All risks which are naturally or necessarily incident to the service.—*Sankey vs. Chicago, Rock Island and Pacific Railway Company*, 118 Iowa 39 (1902).

⁶³⁵ *Duree vs. Chicago, Milwaukee and St. Paul Railway Company*, 118 Iowa 640 (1902).

⁶³⁶ *Wilder vs. Great Western Cereal Company*, 130 Iowa, 263 (1906).

⁶³⁷ *Olson vs. Hanford Produce Company*, 118 Iowa 55 (1902).

⁶³⁸ *Wilder vs. Great Western Cereal Company*, 130 Iowa 263 (1906).

⁶³⁹ *Patton vs. Central Iowa Railway Company*, 73 Iowa 306 (1887). Trainmen assume the risk due to cattle straying onto an unfenced right-of-way.

⁶⁴⁰ The additional risks from snow and its removal from the track

by snow plows are among those necessarily attending the operation of railroads.

⁶⁴¹ *Martin vs. Des Moines Edison Light Company*, 131 Iowa 724 (1906).

⁶⁴² *Wahlquist vs. Maple Grove Coal and Mining Company*, 116 Iowa 720 (1902).

⁶⁴³ *Oleson vs. Maple Grove Coal and Mining Company*, 115 Iowa 74 (1901).

⁶⁴⁴ *Nugent vs. Cudahy Packing Company*, 126 Iowa 517 (1905).

⁶⁴⁵ *McQueeney vs. Chicago, Milwaukee and St. Paul Railway Company*, 120 Iowa 522 (1903).

⁶⁴⁶ *Oleson vs. Maple Grove Coal and Mining Company*, 115 Iowa 74 (1901).

⁶⁴⁷ *Martin vs. Des Moines Edison Light Company*, 131 Iowa 724 (1906).

⁶⁴⁸ Labatt's *Employer's Liability*, Vol. I, p. 620. See *Moran vs. Harris*, 63 Iowa 390 (1884) and *Schminkey vs. Sinclair Company*, 114 Northwestern 612 (1908).

⁶⁴⁹ For statements of this rule see *Perigo vs. Chicago, Rock Island and Pacific Railway Company*, 52 Iowa 276 (1879), and *Mumford vs. Chicago, Rock Island and Pacific Railway Company*, 128 Iowa 685 (1905).

⁶⁵⁰ *Gormon vs. Des Moines Brick Company*, 99 Iowa 257 (1896).

⁶⁵¹ *Cowles vs. Chicago, Rock Island and Pacific Railway Company*, 102 Iowa 507 (1897).

⁶⁵² *Kroy vs. Chicago, Rock Island and Pacific Railway Company*, 32 Iowa 357 (1871).

⁶⁵³ *Mace vs. Boedker and Company*, 127 Iowa 721 (1905).

⁶⁵⁴ *Arenschield vs. Chicago, Rock Island and Pacific Railway Company*, 128 Iowa 677 (1905).

⁶⁵⁵ *Coates vs. Burlington, Cedar Rapids and Northern Railway Company*, 62 Iowa 486 (1883).

⁶⁵⁶ *Bryce vs. Chicago, Milwaukee and St. Paul Railway Company*, 103 Iowa 665 (1897).

⁶⁵⁷ *Olson vs. Hanford Produce Company*, 118 Iowa 55 (1902).

⁶⁵⁸ *Harney vs. Chicago, Rock Island and Pacific Railway Company*, 115 Northwestern 886 (1908).

⁶⁵⁹ *Shebeck vs. National Cracker Company*, 120 Iowa 414 (1903).

⁶⁶⁰ *Carver vs. Minneapolis and St. Louis Railway Company*, 120 Iowa 346 (1903).

⁶⁶¹ *Mace vs. Boedker and Company*, 127 Iowa 721 (1905); *Mayes vs. Chicago, Rock Island and Pacific Railway Company*, 63 Iowa 562 (1884).

⁶⁶² *Nugent vs. Cudahy Packing Company*, 126 Iowa 517 (1905). A carpenter is not presumed to have knowledge of the sufficiency of a brick pier to support a building.

⁶⁶³ *Crabell vs. Wapello Coal Company*, 68 Iowa 751 (1886). A car conductor killed on the first day of his employment in that capacity is not chargeable with knowledge of dangers from the roof and walls of the slope.

⁶⁶⁴ *Bryce vs. Chicago, Milwaukee and St. Paul Railway Company*, 103 Iowa 665 (1897). A brakeman, who is usually on the top of cars while crossing a bridge, is not chargeable with knowledge of the distance between the bridge truss and the sides of the cars.

⁶⁶⁵ *Youll vs. Sioux City and Pacific Railway Company*, 66 Iowa 346 (1885). A brakeman seventeen years of age held to have assumed the risk of making a flying switch.

⁶⁶⁶ *Shebeck vs. National Cracker Company*, 120 Iowa 414 (1903). An instruction was erroneous which did not direct the jury to consider the age of the servant, a boy of eighteen, in determining the question of assumption of risk. In *Woolf vs. Nauman Company*, 128 Iowa 261 (1905), an instruction was approved which made it incumbent upon the defendant to show that a boy of fourteen possessed sufficient knowledge and experience to comprehend the dangers of operating a buzz-saw.

⁶⁶⁷ *Coles vs. Union Terminal Railway Company*, 124 Iowa 48 (1904).

⁶⁶⁸ *Harney vs. Chicago, Rock Island and Pacific Railway Company*, 115 Northwestern 886 (1908).

⁶⁶⁹ Wells *vs.* Burlington, Cedar Rapids and Northern Railway Company, 56 Iowa 520 (1881).

⁶⁷⁰ Olson *vs.* Hanford Produce Company, 118 Iowa 55 (1902).

⁶⁷¹ Perigo *vs.* Chicago, Rock Island and Pacific Railway Company, 52 Iowa 276 (1879).

⁶⁷² In Harney *vs.* Chicago, Rock Island and Pacific Railway Company, 115 Northwestern 886 (1908), it was held that the danger that a board will be caught and drawn back by the teeth of an unguarded saw is not apparent to an inexperienced operator. In Kerns *vs.* Chicago, Milwaukee and St. Paul Railway Company, 94 Iowa 121 (1895) it was held a yard employee is not bound to appreciate the danger of coupling a pilot bar to a box-car. But in Sutton *vs.* Des Moines Bakery, 112 Northwestern 836 (1907), an experienced operative is held to have assumed the risk that his hand may be caught between the unguarded rollers of a dough mixer.

⁶⁷³ Money *vs.* Lower Vein Coal Company, 55 Iowa 671 (1881).

⁶⁷⁴ Box *vs.* Chicago, Rock Island and Pacific Railway Company, 107 Iowa 660 (1899).

⁶⁷⁵ Way *vs.* Chicago and Northwestern Railway Company, 76 Iowa 393 (1888).

⁶⁷⁶ Youll *vs.* Sioux City and Pacific Railway Company, 66 Iowa 346 (1885). Employee assumed the risk of making a flying switch.

⁶⁷⁷ Martin *vs.* Chicago, Rock Island and Pacific Railway Company, 118 Iowa 148 (1902). Habitual violation of speed ordinance.

⁶⁷⁸ Bromberg *vs.* Evans Laundry Company, 134 Iowa 38 (1907).

⁶⁷⁹ Woolf *vs.* Nauman Company, 128 Iowa 261 (1905).

⁶⁸⁰ Coates *vs.* Burlington, Cedar Rapids and Northern Railway Company, 62 Iowa 486 (1883).

⁶⁸¹ Coles *vs.* Union Terminal Railway Company, 124 Iowa 48 (1904).

⁶⁸² Bryce *vs.* Burlington, Cedar Rapids and Northern Railway Company, 128 Iowa 483 (1905).

⁶⁸³ Greenleaf *vs.* Dubuque and Sioux City Railway Company, 33 Iowa 52 (1871).

⁶⁸⁴ *Pieart vs. Chicago, Rock Island and Pacific Railway Company*, 82 Iowa 148 (1891).

⁶⁸⁵ *Foster vs. Chicago, Rock Island and Pacific Railway Company*, 127 Iowa 84 (1905).

⁶⁸⁶ *Stoutenburgh vs. Dow et al.*, 82 Iowa 179 (1891).

⁶⁸⁷ *Pieart vs. Chicago, Rock Island and Pacific Railway Company*, 82 Iowa 148 (1891). Railway company is bound by the promise of a yard-master in regard to a switch engine.

⁶⁸⁸ *Frandsen vs. Chicago, Rock Island and Pacific Railway Company*, 36 Iowa 372 (1873). Section hand remained on hand car by order of the foreman, though he knew that a passenger train for which the section crew were to yield the track was overdue. *Strong vs. Iowa Central Railway Company*, 94 Iowa 380 (1895). Brake-man stood on the locomotive pilot to make a coupling by order of the engineer.

⁶⁸⁹ *Gormon vs. Des Moines Brick Company*, 99 Iowa 257 (1896). An order to crowd a machine and not to allow it to stop was not a command to attempt to adjust its bearings while in motion.

⁶⁹⁰ *Wahlquist vs. Maple Grove Coal and Mining Company*, 116 Iowa 720 (1902).

⁶⁹¹ *Stomne vs. Hanford Produce Company*, 108 Iowa 137 (1899). An employee was justified in relying upon the superintendent's assurance as to the safety of an elevator cable.

⁶⁹² *Perigo vs. Chicago, Rock Island and Pacific Railway Company*, 52 Iowa 276 (1879).

⁶⁹³ *Labatt's Employer's Liability*, Section 281.

⁶⁹⁴ *Laws of Iowa*, 1890, p. 31; *Code of 1897*, Section 2083.

⁶⁹⁵ *House File*, No. 14, 31st General Assembly (1906).

⁶⁹⁶ *Official Directory of the Iowa Federation of Labor*, 1906, p. 133.

⁶⁹⁷ Substitute for *Senate File*, No. 236, 32nd General Assembly (1907); *Official Directory of the Iowa Federation of Labor*, 1907, pp. 126-127.

⁶⁹⁸ *Laws of Iowa*, 1907, p. 182; *Code of Iowa, Supplement*, 1907, Section 4999-a 3.

⁶⁹⁹ *Sullivan vs. Mississippi and Missouri Railroad Company*, 11 Iowa 421 (1860).

⁷⁰⁰ See *Huggard vs. Sugar Refining Company*, 132 Iowa 734 (1907) and cases there cited.

⁷⁰¹ *Gould vs. Schermer*, 101 Iowa 582 (1897); *Madden vs. Saylor Coal Company*, 133 Iowa 699 (1907).

⁷⁰² *Fink vs. Des Moines Ice Company*, 84 Iowa 321 (1892).

⁷⁰³ *Haworth vs. Seevers Manufacturing Company*, 87 Iowa 765 (1892).

⁷⁰⁴ *Beresford vs. American Coal Company*, 124 Iowa 34 (1904).

⁷⁰⁵ *Hendrickson vs. United States Gypsum Company*, 133 Iowa 89 (1907).

⁷⁰⁶ *Schminkey vs. Sinclair Company*, 114 Northwestern 612 (1908).

⁷⁰⁷ See an enumeration of non-delegable duties in *Beresford vs. American Coal Company*, 124 Iowa 34 (1904).

⁷⁰⁸ *Blazenic vs. Iowa and Wisconsin Coal Company*, 102 Iowa 706 (1897).

⁷⁰⁹ *Sullivan vs. Mississippi and Missouri Railroad Company*, 11 Iowa 421 (1860).

⁷¹⁰ *Hoben vs. Burlington and Missouri River Railroad Company*, 20 Iowa 562 (1866).

⁷¹¹ *Beresford vs. American Coal Company*, 124 Iowa 34 (1904).

⁷¹² *Peterson vs. Whitebreast Coal and Mining Company*, 50 Iowa 673 (1879). *Hathaway vs. Illinois Central Railway Company*, 92 Iowa 337 (1894).

⁷¹³ *Hathaway vs. City of Des Moines*, 97 Iowa 333 (1896).

⁷¹⁴ See *Baldwin vs. St. Louis, Keokuk and Northwestern Railway Company*, 75 Iowa 297 (1888); *Foley vs. Chicago, Rock Island and Pacific Railway Company*, 64 Iowa 644 (1884).

⁷¹⁵ *Baldwin vs. St. Louis, Keokuk and Northern Railway Company*, 68 Iowa 37 (1885).

⁷¹⁶ The cases cited in this paragraph are collected in Labatt's *Em-*

ployer's Liability, Vol. II, p. 1587. *Hoben vs. Burlington and Missouri River Railroad Company*, 20 Iowa 562 (1866).

⁷¹⁷ *Foley vs. Chicago, Rock Island and Pacific Railway Company*, 64 Iowa 644 (1884).

⁷¹⁸ *Benn vs. Null*, 65 Iowa 407 (1884).

⁷¹⁹ *Hathaway vs. Illinois Central Railway Company*, 92 Iowa 337 (1894).

⁷²⁰ *Hoben vs. Burlington and Missouri River Railroad Company*, 20 Iowa 562 (1866).

⁷²¹ *Beresford vs. American Coal Company*, 124 Iowa 34 (1904).

⁷²² *Collingwood vs. Illinois and Iowa Fuel Company*, 125 Iowa 537 (1904).

⁷²³ *Baldwin vs. St. Louis, Keokuk and Northern Railway Company*, 68 Iowa 37 (1885).

⁷²⁴ *Cooper vs. Central Railroad of Iowa*, 44 Iowa 134 (1876).

⁷²⁵ *Struble vs. Burlington, Cedar Rapids and Northern Railway Company*, 128 Iowa 158 (1905).

⁷²⁶ *Peterson vs. Whitebreast Coal and Mining Company*, 50 Iowa 673 (1879); *Hathaway vs. City of Des Moines*, 97 Iowa 333 (1896); *Foley vs. Chicago, Rock Island and Pacific Railway Company*, 64 Iowa 644 (1884).

⁷²⁷ *Beresford vs. American Coal Company*, 124 Iowa 34 (1904); *McQueeney vs. Chicago, Milwaukee and St. Paul Railway Company*, 120 Iowa 522 (1903); *Vohs vs. Shorthill*, 130 Iowa 538 (1906).

⁷²⁸ *Newbury vs. Getchel and Martin Company*, 100 Iowa 441 (1896); *McQueeney vs. Chicago, Milwaukee and St. Paul Railway Company*, 120 Iowa 522 (1903); *Collingwood vs. Illinois and Iowa Fuel Company*, 125 Iowa 537 (1904); *Barnicle vs. Connor*, 110 Iowa 238 (1900).

⁷²⁹ Labatt in his *Employer's Liability*, Vol. II, p. 1588, regarded the question as still unsettled in 1902. But the statement in the text appears to be justified by the decisions in *Beresford vs. American Coal Company*, 124 Iowa 34 (1904); *Collingwood vs. Illinois and Iowa Fuel Company*, 125 Iowa 537 (1904); and *Vohs vs. Shorthill*, 130 Iowa 538 (1906).

⁷³⁰ *Donaldson vs. Mississippi and Missouri Railroad Company*, 18 Iowa 280 (1865).

⁷³¹ *Brann vs. Chicago, Rock Island and Pacific Railway Company*, 53 Iowa 595 (1880).

⁷³² *Theleman vs. Moeller*, 73 Iowa 108 (1887).

⁷³³ *Pyne vs. Chicago, Burlington and Quincy Railway Company*, 54 Iowa 223 (1880).

⁷³⁴ *Treka vs. Burlington, Cedar Rapids and Northern Railway Company*, 100 Iowa 205 (1896).

⁷³⁵ *Sullivan vs. Mississippi and Missouri Railroad Company*, 11 Iowa 421 (1860).

⁷³⁶ *Manning vs. Burlington, Cedar Rapids and Northern Railway Company*, 64 Iowa 240 (1884).

⁷³⁷ *Troughear vs. Lower Vein Coal Company*, 62 Iowa 576 (1883).

⁷³⁸ *Pyne vs. Chicago, Burlington and Quincy Railway Company*, 54 Iowa 223 (1880).

⁷³⁹ See *Sullivan vs. Mississippi and Missouri Railroad Company*, 11 Iowa 421 (1860).

⁷⁴⁰ *Laws of Iowa*, 1862, p. 198.

⁷⁴¹ *Laws of Iowa*, 1870, p. 161.

⁷⁴² *Laws of Iowa* (Public), 1872, p. 70.

⁷⁴³ *Code of 1873*, Section 1307.

⁷⁴⁴ *Code of 1897*, Section 2071.

⁷⁴⁵ *Code of 1873*, Section 1278; *Code of 1897*, Section 2039.

⁷⁴⁶ *Bower vs. Burlington and Southwestern Railway Company*, 42 Iowa 546 (1876). The lessor is also liable.

⁷⁴⁷ *Sloan vs. Central Iowa Railway Company*, 62 Iowa 728 (1883). Liability attaches not to the receiver personally but to the property in his hands.

⁷⁴⁸ *McKnight vs. Iowa and Minnesota Railway Construction Company*, 43 Iowa 406 (1876). *Mace vs. Boedker and Company*, 127 Iowa 721 (1905).

⁷⁴⁹ *McLeod vs. Sioux City Traction Company*, 125 Iowa 270 (1904).

⁷⁵⁰ *Laws of Iowa*, 1902, p. 49.

⁷⁵¹ *Constitution of Iowa*, 1857, Art. III, Sec. 29.

⁷⁵² *Constitution of Iowa*, 1857, Art. I, Sec. 6.

⁷⁵³ *Bucklew vs. Central Iowa Railway Company*, 64 Iowa 603 (1884).

⁷⁵⁴ *McAunich vs. Mississippi and Missouri Railway Company*, 20 Iowa 338 (1866). *Deppe vs. Chicago, Rock Island and Pacific Railway Company*, 36 Iowa 52 (1872).

⁷⁵⁵ *Foley vs. Chicago, Rock Island and Pacific Railway Company*, 64 Iowa 644 (1884).

⁷⁵⁶ *Larson vs. Illinois Central Railway Company*, 91 Iowa 81 (1894); *Connors vs. Chicago and Northwestern Railway Company*, 111 Iowa 384 (1900).

⁷⁵⁷ *Stroble vs. Chicago, Milwaukee and St. Paul Railway Company*, 70 Iowa 555 (1886).

⁷⁵⁸ *Butler vs. Chicago, Burlington and Quincy Railroad Company*, 87 Iowa 206 (1893).

⁷⁵⁹ *Chicago, Milwaukee and St. Paul Railway Company vs. Artery*, 137 United States 507 (1890); *Larson vs. Illinois Central Railway Company*, 91 Iowa 81 (1894).

⁷⁶⁰ *Deppe vs. Chicago, Rock Island and Pacific Railway Company*, 36 Iowa 52 (1872). *Frandsen vs. Chicago, Rock Island and Pacific Railway Company*, 36 Iowa 372 (1873). See the Court's remarks in *Malone vs. Burlington, Cedar Rapids and Northern Railway Company*, 65 Iowa 417 (1884).

⁷⁶¹ *Malone vs. Burlington, Cedar Rapids and Northern Railway Company*, 65 Iowa 417 (1884).

⁷⁶² *Malone vs. Burlington, Cedar Rapids and Northern Railway Company*, 65 Iowa 417 (1884); *Stroble vs. Chicago, Milwaukee and St. Paul Railway Company*, 70 Iowa 555 (1886). "This negligence, to render the corporation liable, must be of an employe, and affect a co-employe, who are in some manner performing work for the purpose of moving a train."

⁷⁶³ *Pierce vs. Central Iowa Railway Company*, 73 Iowa 140 (1887). The fact that the plaintiff was not employed in the operation of the road held to be not material.

⁷⁶⁴ *Pyne vs. Chicago, Burlington and Quincy Railway Company*, 54 Iowa 223 (1880); *Handelun vs. Burlington, Cedar Rapids and Northern Railway Company*, 72 Iowa 709 (1887); *Butler vs. Chicago, Burlington and Quincy Railroad Company*, 87 Iowa 206 (1893); *Canon vs. Chicago, Milwaukee and St. Paul Railway Company*, 101 Iowa 613 (1897); *Akeson vs. Chicago, Burlington and Quincy Railway Company*, 106 Iowa 54 (1898); *Hughes vs. Iowa Central Railway Company*, 128 Iowa 207 (1905).

⁷⁶⁵ *Schroeder vs. Chicago, Rock Island and Pacific Railway Company*, 41 Iowa 344 (1875).

⁷⁶⁶ *Hughes vs. Iowa Central Railway Company*, 128 Iowa 207 (1905).

⁷⁶⁷ *Akeson vs. Chicago, Burlington and Quincy Railway Company*, 106 Iowa 54 (1898).

⁷⁶⁸ See Labatt's *Employer's Liability*, Vol. II, p. 2114, and cases cited.

⁷⁶⁹ *Deppe vs. Chicago, Rock Island and Pacific Railway Company*, 36 Iowa 52 (1872).

⁷⁷⁰ *Nelson vs. Chicago, Milwaukee and St. Paul Railway Company*, 73 Iowa 576 (1887).

⁷⁷¹ *Handelun vs. Burlington, Cedar Rapids and Northern Railway Company*, 72 Iowa 709 (1887).

⁷⁷² *Smith vs. Humeston and Shenandoah Railway Company*, 78 Iowa 583 (1889).

⁷⁷³ *Akeson vs. Chicago, Burlington and Quincy Railway Company*, 106 Iowa 54 (1898).

⁷⁷⁴ *Butler vs. Chicago, Burlington and Quincy Railroad Company*, 87 Iowa 206 (1893).

⁷⁷⁵ *Malone vs. Burlington, Cedar Rapids and Northern Railway Company*, 65 Iowa 417 (1884).

⁷⁷⁶ *Canon vs. Chicago, Milwaukee and St. Paul Railway Company*, 101 Iowa 613 (1897).

⁷⁷⁷ *Hughes vs. Iowa Central Railway Company*, 128 Iowa 207 (1905).

⁷⁷⁸ *Jensen vs. Omaha and St. Louis Railway Company*, 115 Iowa 404 (1902).

⁷⁷⁹ *Pierce vs. Central Iowa Railway Company*, 73 Iowa 140 (1887). Plaintiff was upon a ladder leaning against the car and was injured by the negligent starting of the train.

⁷⁸⁰ *Pyne vs. Chicago, Burlington and Quincy Railway Company*, 54 Iowa 223 (1880). A detective prostrated by sun-stroke and run over while in a state of insensibility.

⁷⁸¹ *Keatley vs. Illinois Central Railway Company*, 94 Iowa 685 (1895). Employee injured by the negligent running of a train at dangerous speed across an unfinished bridge.

⁷⁸² *Haden vs. Sioux City and Pacific Railway Company*, 92 Iowa 226 (1894). Section foreman stepped upon the track after the first section of a train had passed and was struck by the second section, the approach of which he had no reason to expect.

⁷⁸³ *Larson vs. Illinois Central Railway Company*, 91 Iowa 81 (1894). Collision with another hand car. In *Chicago, Milwaukee and St. Paul Railway Company vs. Artery*, 137 United States 507 (1890) it was said: "The railway was being used and operated in the movement of the hand-car, quite as much as if the latter had been a train of cars drawn by a locomotive."

⁷⁸⁴ *Potter vs. Chicago, Rock Island and Pacific Railway Company*, 46 Iowa 399 (1877).

⁷⁸⁵ *Luce vs. Chicago, St. Paul, Minneapolis and Omaha Railway Company*, 67 Iowa 75 (1885).

⁷⁸⁶ *Manning vs. Burlington, Cedar Rapids and Northern Railway Company*, 64 Iowa 240 (1890).

⁷⁸⁷ *Hathaway vs. Illinois Central Railway Company*, 92 Iowa 337 (1894).

⁷⁸⁸ *Matson vs. Chicago, Rock Island and Pacific Railway Company*, 68 Iowa 22 (1885). Plaintiff injured by heavy stone thrown by a member of the same gang. *Dunn vs. Chicago, Rock Island and Pacific Railway Company*, 130 Iowa 580 (1906). Plaintiff was struck by

an iron bar which a member of the same gang had left upon the track and which was hurled off by a passing train.

⁷⁸⁹ *Smith vs. Burlington, Cedar Rapids and Northern Railway Company*, 59 Iowa 73 (1882).

⁷⁹⁰ *Potter vs. Chicago, Rock Island and Pacific Railway Company*, 46 Iowa 399 (1877).

⁷⁹¹ *Hunt vs. Chicago and Northwestern Railway Company*, 26 Iowa 363 (1868).

⁷⁹² *Murphy vs. Chicago, Rock Island and Pacific Railway Company*, 45 Iowa 661 (1877).

⁷⁹³ *Mumford vs. Chicago, Rock Island and Pacific Railway Company*, 128 Iowa 685 (1905).

⁷⁹⁴ *Mumford vs. Chicago, Rock Island and Pacific Railway Company*, 128 Iowa 685 (1905).

⁷⁹⁵ *Donald vs. Chicago, Burlington and Quincy Railway Company*, 93 Iowa 284 (1895).

⁷⁹⁶ *Report of the Iowa Bureau of Labor Statistics*, 1897, pp. 94-196. Contains the hearings on the Temple Amendment before the Senate Committee in 1897, also a statement by the assistant superintendent of the Burlington Relief Department. The application for membership appears on pp. 99-100.

⁷⁹⁷ *Journal of the House of Representatives*, 1897, pp. 279-280.

⁷⁹⁸ *Journal of the House of Representatives*, 1897, pp. 791, 792, 809, 818, 930, 960, 968, 969; *Journal of the Senate*, 1897, pp. 649, 792, 793, 860, 888, 1105, 1106. The Temple Amendment affected Section 38 of *Senate File*, No. 20, 26th General Assembly, Extra Session (1897).

⁷⁹⁹ *Iowa Official Register*, 1898, pp. 135, 138.

⁸⁰⁰ The vote in the Senate was 39 to 4; in the House, 96 to 1. *Journal of the Senate*, 1898, p. 342; *Journal of the House of Representatives*, 1898, p. 529.

⁸⁰¹ *Laws of Iowa*, 1898, p. 33; *Supplement of 1907*, Section 2071.

⁸⁰² *McGuire vs. Chicago, Burlington and Quincy Railroad Company*, 131 Iowa 340 (1906).

⁸⁰³ One hundred and fifty-eight deaths and 3,370 injuries to employees from industrial accidents were reported in Iowa in the year 1906. How many occurred cannot be stated.

⁸⁰⁴ *Bulletin of the United States Bureau of Labor*, No. 74, p. 120.

⁸⁰⁵ Clark in *Bulletin of the United States Bureau of Labor*, No. 74, p. 120.

⁸⁰⁶ *Martin vs. Des Moines Edison Light Company*, 131 Iowa 724 (1906). "The risks thus arising [from dangers incident to the service] the servant takes upon himself and his wages are considered to be his full compensation for the danger thus incurred as well as for the actual labor of his hands."

⁸⁰⁷ *Sullivan vs. Mississippi and Missouri Railroad Company*, 11 Iowa 421 (1860).

⁸⁰⁸ *Farwell vs. Boston and Worcester Rail Road Corporation*, 4 Metcalf 49.

⁸⁰⁹ *Kroy vs. Chicago, Rock Island and Pacific Railway Company* 32 Iowa 357 (1871).

⁸¹⁰ See Justice Beek's remarks in *Patton vs. Central Iowa Railway Company*, 73 Iowa 306 (1887).

⁸¹¹ Labatt's *Employer's Liability*, Section 475.

⁸¹² *Shearman and Redfield's Negligence*, p. vi.

CHAPTER IX

⁸¹³ *Laws of Iowa*, 1886, p. 89; *Code of 1897*, Section 1642.

⁸¹⁴ *Laws of Iowa*, 1888, p. 80; *Code of 1897*, Sections 5027-5028.

⁸¹⁵ *Code of 1851*, Section 2758; *Code of 1897*, Section 5059.

⁸¹⁶ *Laws of Iowa*, 1892, p. 63; *Code of 1897*, Sections 5049-5051.

⁸¹⁷ *Beebe vs. Tolerton and Stetson Company*, 117 Iowa 593 (Cigar-markers' label).

⁸¹⁸ For an account of some of these practices see Conner's *Free Public Employment Offices in the United States*, in the *Bulletin of the United States Bureau of Labor*, No. 68, p. 16.

⁸¹⁹ Conner's *Free Public Employment Offices in the United States*, in the *Bulletin of the United States Bureau of Labor*, No. 68, p. 3.

⁸²⁰ *Report of the Iowa Bureau of Labor Statistics*, 1891, pp. 2-3.

⁸²¹ Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. VI, p. 318.

⁸²² *House File*, No. 49; *Senate File*, No. 279, 24th General Assembly (1892).

⁸²³ *House File*, No. 160; *Senate File*, No. 78, 25th General Assembly (1894).

⁸²⁴ *Report of the Iowa Bureau of Labor Statistics*, 1895, p. 14.

⁸²⁵ The name suggested by Doctor Conner.

⁸²⁶ Conner's *Free Public Employment Offices in the United States*, in the *Bulletin of the United States Bureau of Labor*, No. 68, pp. 91-113; *Official Directory of the Iowa Federation of Labor*, 1906, p. 133.

⁸²⁷ *Journals of the Senate and House of Representatives*, 1906. *House File*, No. 241, and *Senate File*, No. 176, 31st General Assembly.

⁸²⁸ *Laws of Iowa*, 1907, p. 26; *Code Supplement of 1907*, Section 700

⁸²⁹ *Laws of Iowa*, 1907, p. 128; *Code Supplement of 1907*, Section 2477h-2477l.

⁸³⁰ Based upon the records in the city clerks' offices.

⁸³¹ *Laws of Iowa*, 1892, p. 58; *Code of 1897*, Section 1123.

⁸³² *Laws of Iowa*, 1884, p. 219.

⁸³³ *Code of 1897*, Section 1535.

⁸³⁴ *Report of the Iowa Bureau of Labor Statistics*, 1885, p. 363.

⁸³⁵ *Senate Files*, Nos. 1, 163, 183, 262, 324; *House Files*, Nos. 37, 343, 381, 444, 21st General Assembly (1886).

⁸³⁶ *Laws of Iowa*, 1886, pp. 21-25.

⁸³⁷ *Report of the Code Commission to the Twenty-sixth General Assembly*, p. 116.

⁸³⁸ See table in the *Third Special Report of the United States Commissioner of Labor*, p. 5.

⁸³⁹ Statement to writer by Mr. Edwin Perry of Oskaloosa, former State Secretary of the Knights of Labor.

⁸⁴⁰ The final vote was: in the Senate 26 yeas, 7 nays; in the House, 59 yeas, 23 nays.—*Journals of the Senate and House of Representatives*, 1884, *Senate File*, No. 83.

⁸⁴¹ *Laws of Iowa*, 1884, p. 134.

⁸⁴² *Iowa Official Register*, 1907-8, p. 164.

⁸⁴³ *Laws of Iowa*, 1894, p. 127.

⁸⁴⁴ *Laws of Iowa*, 1896, p. 89.

⁸⁴⁵ *Laws of Iowa*, 1904, p. 92.

⁸⁴⁶ *Laws of Iowa*, 1907, p. 127.

⁸⁴⁷ *Laws of Iowa*, 1904, p. 92; *Code Supplement of 1907*, Section 2477.

⁸⁴⁸ *Laws of Iowa*, 1902, p. 61; *Code Supplement of 1907*, Section 2470.

⁸⁴⁹ See p. 106.

⁸⁵⁰ See p. 99.

⁸⁵¹ See p. 139.

⁸⁵² See p. 190.

⁸⁵³ Of 19,500 blanks sent to working men and women in 1894, only 4,160 were returned properly filled out.—*Report of the Iowa Bureau of Labor Statistics*, 1895, p. 8.

⁸⁵⁴ *Report of the Iowa Bureau of Labor Statistics*, 1887, p. 196; 1895, p. 9.

⁸⁵⁵ *Report of the Iowa Bureau of Labor Statistics*, 1895, pp. 20-22.

⁸⁵⁶ *Laws of Iowa*, 1896, p. 89.

⁸⁵⁷ See p. 105.

⁸⁵⁸ *Journal of the Senate*, 1896, p. 858.

⁸⁵⁹ *Journal of the House of Representatives*, 1896, pp. 913, 922, 955. See also the *Iowa State Register*, April 3 and April 17, 1896.

⁸⁶⁰ *Code of 1897*, Section 2474.

⁸⁶¹ *Report of the Attorney General*, 1904, pp. 137-139.

⁸⁶² *Report of the Iowa Bureau of Labor Statistics*, 1901-1902, p. 386.

⁸⁶³ See *Report of the Iowa Bureau of Labor Statistics*, 1893, p. 7.

⁸⁶⁴ The first eleven reports were printed in odd numbered years; the twelfth report was issued in 1906, and subsequent reports will appear in even-numbered years. *Laws of Iowa*, 1906, p. 71.

⁸⁶⁵ *Code Supplement of 1907*, Section 125.

⁸⁶⁶ The report for 1905 contains data for 882 establishments of *all kinds*, employing 35,551 persons; the United States census of manufactures the same year shows 4,785 *manufacturing* establishments, employing 49,481 persons.

⁸⁶⁷ Tribunal of voluntary arbitration. See p. 191.

⁸⁶⁸ *Laws of Iowa*, 1909, p. 180.

⁸⁶⁹ *Laws of Iowa*, 1909, p. 141.

⁸⁷⁰ *Laws of Iowa*, 1909, p. 200.

⁸⁷¹ *Laws of Iowa*, 1909, p. 117.

⁸⁷² *Laws of Iowa*, 1909, p. 175.

⁸⁷³ *Laws of Iowa*, 1909, p. 118.

⁸⁷⁴ *Laws of Iowa*, 1909, p. 41.

⁸⁷⁵ *Laws of Iowa*, 1909, p. 140.

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